VOL. VIII.
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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.
OCTOBER TERM, [redacted] 1921

Term No. [redacted] 251

CHARLES D. NEWTON, AS ATTORNEY GENERAL OF THE STATE OF NEW YORK, EDWARD SWANN, AS DISTRICT ATTORNEY OF THE COUNTY OF NEW YORK AND LEWIS NIXON, CONSTITUTING THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK, FIRST DISTRICT, APPELLANTS,

vs.

CONSOLIDATED GAS COMPANY OF NEW YORK, RESPONDENT.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED MARCH 17, 1921

(File No. 28144.)

2>7-5-

INDEX.

VOLUME VIII.

	PAGE
Testimony of Henry M. Brundage (recross)	5945
Defendant's Exhibit OO	6003
Defendant's Exhibit PP	6007
Defendant's Exhibit QQ	6007
Defendant's Exhibit RR	6009
Defendant's Exhibit SS	6010
Defendant's Exhibit TT	6011
Defendant's Exhibit UU	6012
Defendant's Exhibit VV	6030
Defendant's Exhibit WW	6031
Defendant's Exhibit XX	6031
Defendant's Exhibit YY	6036
Defendant's Exhibit ZZ	6041
Complainant's Exhibit 362	6149
Complainant's Exhibit 363	6152
Testimony of Arthur W. Teele (recalled redirect)	6154
Complainant's Exhibit 364 (for identification)	6157
(Received)	6168
Complainant's Exhibit 365 (for identification)	6178
(Received)	6180
Complainant's Exhibit 366	6189
Complainant's Exhibit 367	6201
Complainant's Exhibit 368	6206
Complainant's Exhibit 369	6210
Testimony of Arthur W. Teele (recross)	6214
Complainant's Exhibit 370	6252
Complainant's Exhibit 371	6252
Complainant's Exhibit 372	6272
Complainant's Exhibit 373	6272
Complainant's Exhibit 374	6324
Defendant's Exhibit AA1	6323
Defendant's Exhibit AA2	6323
Defendant's Exhibit AA3	6324
Defendant's Exhibit AA4	6324
Defendant's Exhibit AA5	6415
Defendant's Exhibit AA6	6415
Defendant's Exhibit AA7	6416
Defendant's Exhibit AA8	6416
Defendant's Exhibit AA9	6416
Defendant's Exhibit AA10	6417
Defendant's Exhibit AA11	6417

PAGE
Testimony of Arthur W. Teele (recross)—Continued
Defendant's Exhibit AA12 641
Complainant's Exhibit 375 646
Defendant's Exhibit AA13 666
Defendant's Exhibit AA14 666
Defendant's Exhibit AA15 666
Defendant's Exhibit AA16 670
Defendant's Exhibit AA17 671
Defendant's Exhibit AA18 678
Defendant's Exhibit AA19 680
Defendant's Exhibit AA20 681
Defendant's Exhibit AA21 681
Defendant's Exhibit AA22 681
Defendant's Exhibit AA23 681
Defendant's Exhibit AA24 (marked as Complainant's Exhibit 376 introduced) 737
Testimony of Robert A. Carter (recalled redirect) 689
Testimony of Robert A. Carter (recross) 689
Testimony of Colin C. Simpson on former trial read by Counsel for complainant 689

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 17833

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 7, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 17834
MR. O'BRIEN, of Counsel for defendant Swann.

HENRY M. BRUNDAGE, resumes the stand:

CROSS-EXAMINATION CONTINUED BY MR. O'BRIEN:

Q. Mr. Brundage, have you produced any invoices or vouchers of companies other than the Astoria Company for gas transferred to the complainant? 17835

Mr. Ransom: We had them all here yesterday.

A. They were all here in court yesterday, as I understand it.

Mr. Ransom: They will be back in a few minutes.

Q. In making up the bills of the Astoria Company to the complainant company monthly for gas furnished, what do you do where bills have not been received for material furnished during the preceding month? Do you estimate it?

A. I testified yesterday that all coal and oil bills would get into the accounts. There might occasionally happen some small bill for miscellaneous material that would not be received. It is not a frequent case, but if it were so, we would put it in the account when it was received, and it might come in a subsequent month.

The Master: You would not estimate it to put it into a particular month?

The Witness: No.

The Master: You would wait until you got a
17837 bill?

The Witness: Yes, sir.

Q. Have you not testified that the bills do not come along until the middle of the month or the latter part of the month?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Do you have the same practice and the same experience in the matter of bills in the Astoria Company that you do with the complainant company?

Mr. Ransom: Objected to.

The Master: I will allow that. Is the same practice followed?

17838 The Witness: There is no substantial difference in the receipt of bills between the two companies.

Q. Do you desire to correct your testimony as to the fact that bills are frequently delayed and do not come in?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: I call your Honor's attention to the fact that when we called the witness's attention to the fact that in a great many accounts entries were made in months after the transac-

tion, he explained that by saying that the bills come in late, and that they put them in at that time. Now, he has asserted that with the Astoria Company there are only a few bills for small amounts.

The Master: I will stand by my ruling.

Mr. O'Brien: Exception.

Q. Are you as closely in touch with the books of the Astoria Company as you are with the books of the complainant company?

Mr. Ransom: Objected to.

The Master: Objection sustained. 17840

Mr. O'Brien: Exception.

Q. Do you occupy the same relation to the books of account of the Astoria Company that you do to the books of account of the complainant company?

Mr. Ransom: Objected to.

The Master: Objection sustained as sufficiently covered.

Mr. O'Brien: Exception.

Q. Are the books of the Astoria Company audited periodically?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Is that on the ground that the 17841
Astoria Company is a separate corporation.

The Master: Yes, and there is no tender here as to the accuracy of the books of the Astoria Company. They have not been offered in evidence. I don't care whether they are audited or not.

Mr. O'Brien: But the vouchers are brought into court that embody the cost of making gas at Astoria and the Astoria Company is completely owned by the complainant company.

The Master: Yes, but the mere fact that they

have vouchers showing that they paid the Astoria Company certain sums of money for gas does not show that those amounts were correctly charged. That is what they paid.

Mr. O'Brien: That is an issue in this case.

The Master: No.

Mr. O'Brien: The cost of making gas at Astoria is just as vital an issue in this case as the cost of making gas at 99th Street and 21st Street.

The Master: Not at this time.

17843 Mr. O'Brien: That is our contention.

The Master: I will not sustain the contention.

Mr. O'Brien: My further view is that we have got to try out the cost of making gas in every one of these affiliated companies, and we can never have a decision in the lower court that will stand unless we have the whole thing on the table.

The Master: I will not go into it unless the complainants undertake to assume the burden of proving what it costs to make gas in other companies.

17844 Mr. O'Brien: But they have to prove the reasonableness of the cost of gas. Where they have complete control of this company it is just as much a part of this company as 99th Street or 21st Street. It is called by a different name, it is, you might say, a separate legal entity, but they have got to go into it, and they have presented books here that show expenditures of money, and we have here a man who is in charge of the books of both companies, the man who has paid out the company's money by putting his O K as assistant secretary on the books.

The Master: Just let me interrupt you. They come into court, and they say, "We paid the Astoria Company six million dollars for gas in 1918; they sent us a bill for it." Your contention is that I cannot assume that those charges were reasonable unless they prove it. Is that so?

Mr. O'Brien: Yes.

The Master: Have they offered any proof that they are reasonable?

Mr. O'Brien: Well, now if you ask me what proof they have offered, your Honor, I would 17846
have to say that they have not scratched the surface of the case.

The Master: Answer that, because it relates directly to your cross-examination.

Mr. O'Brien: I would say no, except to the extent that you have, over our objection, received in evidence books of account. How far you consider them evidence I don't know.

The Master: Wait a minute, I want to see if there is ever a time when you and I can agree about anything, if Mr. Edgerton will not interrupt while I am talking. The Consolidated Gas Company comes into court and says, "We 17847
paid the Astoria a certain amount of money for gas delivered in 1918." They do not call the Astoria men to show their books, to show how they arrived at the cost. They do not prove up the figures at all, but apparently rely upon the statement, "We paid that much for gas." Now I haven't heard any proof offered by them to justify the charges of the Astoria Company at all. Now, you are attempting to cross-examine on something that an issue has not been tendered on. Don't you see what I mean? Objection sustained.

17848 Henry M. Brundage, Cross.

Mr. Ransom: Mr. O'Brien yesterday went very fully into the reasonableness of the Astoria charges. It was quite thoroughly shown by Mr. O'Brien yesterday.

The Master: But you haven't offered any proof on it.

Mr. Ransom: Not yet.

The Master: The defendants by their cross-examination may have brought out a number of things that may perhaps indicate the reasonableness, but you have not proved anything on
17849 it; therefore it is not cross-examination.

Mr. Ransom: It is direct-examination, Mr. O'Brien.

Mr. O'Brien: I have stated to your Honor that our cross-examination takes the course it does by reason of the fact that we do not know who is going to be presented here. I do not know how meagre or how adequate the proof will be that is offered by this complainant. I agree with you, however, that they have only just crossed the threshhold. Books of account do not prove anything.

The Master: If I were representing the de-
17850 fendant Swann I would cross-examine witnesses upon the matters on which they are presented on direct. I would not worry myself as to what they are going to call or what they are not going to call.

Mr. O'Brien: I will tell you the propriety of my question, to get right down to the point. I am in the same position with regard to these vouchers or invoices, whatever you may call them, for gas transferred from the Astoria Company to the complainant company, for the purposes of my examination, as I am in respect to the

coal bills and in respect to the bills for supplies. Here we have on the stand not somebody of Williams & Peters trying to prove the reasonableness of the prices of the coal they sold, but we have as a witness an officer of this company, who is also an officer of the company that sells them the gas, a peculiar situation, where he has an obligation on both ends, where he represents the vendor and the vendee.

The Master: He has not been called for the purpose of proving the reasonableness of the charge. 17852

Mr. O'Brien: We can tell what Judge Ransom may say later on. Later on he may say, "You knew that this man was connected with the seller."

The Master: No.

Mr. O'Brien: He may say, "You know you could have examined him as to the prices that were paid."

The Master: Objection sustained.

Mr. O'Brien: Exception. The same way with Mr. Woods, holding positions with both companies, a seller of gas to the complainant company, the receiver of gas. He is filling a position there that opens a door to a much wider examination and if we had some witness on the stand connected merely with the vendor. 17853

The Master: Well, his examination is concluded.

Mr. O'Brien: We will recall him some other day.

The Master: I will entertain an application at any time.

Mr. O'Brien: Judge, have the vouchers come yet?

Mr. Ransom: They have not.

Q. You testified on page 1416, Mr. Brundage, that you did not keep a cash book. It is not clear whether you refer to the commercial offices, the branch commercial office, or to the main office, or to both. Will you state whether in the branch commercial offices there is a cash book kept?

A. There is no cash book kept in the branch offices. There is a cash book kept in the general office.

Q. Is that the same as the treasurer's book?

A. What you call the treasurer's cash book.

17855 Q. And these books in the branch offices are designed to cover what is usually covered by a cash book?

A. Yes. The original record in the branch office is the coupon taken from the gas bill.

Q. Those are separate coupons with holes in them to be put on pegs, are they?

A. Yes.

Q. And how long has that practice been in vogue?

A. The cash coupon system has been in vogue, oh, many years; fifteen years or more, to my knowledge.

Q. Well, did you ever keep cash books?

17856 Mr. Ransom: I object to that as immaterial.

The Master: I will allow it.

A. Not in my time.

Q. Have you ever recommended the keeping of cash books?

Mr. Ransom: Objected to.

The Master: Sustained.

Q. Where is the first entry made when the cash is paid in to the branch offices?

Mr. Ransom: Objected to. Fully covered.

The Master: Sustained.

Mr. O'Brien: Your Honor, I must insist, I

have been over this record here and I am telling you now, while it is not fresh in your mind, that the whole subject is treated so generally that you haven't anything to explain it.

The Master: Probably not at the point you are reading.

Mr. O'Brien: Well, I have been through the record, and there isn't anything here. There is a hurried explanation given by the witness in a manner that nobody can understand.

The Master: What is the last question?

(The question was read by the stenographer.) 17858

The Master: I will allow that question.

The Witness: When the cash comes to the cashier, it must always be accompanied by a coupon. The first entry is made at the end of the day, when the coupons are footed and their aggregate determined. The coupons then go to the bookkeepers and are posted to the credit of the party who paid the money.

Q. You say they must be accompanied by a coupon. Do you mean there is some rule to guide the bookkeepers, or did you mean that the consumer must send the coupon in?

A. If he fails to do so, the coupon is made up. 17859 The cashier cannot take money in unless it is accompanied by a coupon.

Q. Well, aren't frequently, moneys and checks received without the coupons? Isn't that a frequent practice?

A. That happens. In which case a duplicate coupon is made up.

Q. Who has charge of it? Does the cashier receive the money in the first instance?

A. The morning's mail is opened by the assistant superintendent, who gets the money in the first

17860 Henry M. Brundage, Cross.

instance, that comes that way. Money coming over the counter goes to the cashier first.

Q. And a duplicate coupon is made up where there isn't any accompanying the money?

A. Yes, sir.

Q. And then proceeds to the cashier, and from him to the bookkeeper?

A. Yes, sir.

Q. And from the bookkeeper where?

A. It is then grouped for the day in order that all the coupons received in one day may be kept to-
17861 gether.

Q. And then what happens?

A. And of course there is one step between that that I should speak of. After the coupons have been posted in the ledgers, they are also posted in the ticklers, by a separate force of tickler clerks, which, as I have testified, is a check upon the accuracy of the bookkeeping.

Q. Well, you have another class of employees in the branch offices handling the accounts for appliances?

A. Yes, we have appliance men.

Q. Have you a separate staff for the appliance
17862 business?

A. No.

Q. Moneys are received that cover accounts for gas consumed as well as appliances?

A. They do.

Q. The same bill, same check, same letter, may bring such moneys?

A. It does.

Q. Payment is made over the counter including cost of appliances as well as the cost of gas furnished?

A. And rentals. All come in through the same channels, sir.

Q. Do you keep a separate set of books for the appliances?

Mr. Ransom: Objected to as fully covered.

The Master: I will allow it. I will let Mr. O'Brien make it clear that there isn't any differentiation in the work, and that there is no apportionment of the expense, if that is what he wants to do, and then I will put a stop to it.

Mr. O'Brien: Yes.

A. There is a separae record kept of the appliances sold. The record of appliances rendered is kept in the consumers' accounts in the branch offices, being the same accounts in which are kept the gas sales. 17864

The Master: And all of these clerks are on the same pay roll?

The Witness: They are.

The Master: There is no distinction between a clerk that does one kind of work and a clerk doing the other.

The Witness: All in one account.

The Master: And the expense is all charged as one expense of the running of the gas business?

The Witness: All charged into operating expenses. 17865

The Master: Of the gas business?

The Witness: Of the gas business, yes.

The Master: That is what you want, isn't it, Mr. O'Brien?

Mr. O'Brien: Yes.

The Master: Pass along.

Q. And in the matter of collecting the amounts for appliances of course you frequently threaten to cut off the supply of gas unless the bill is paid?

Mr. Ransom: Objected to.

The Master: Objection sustained. Don't waste any more time on it.

Mr. O'Brien: Your Honor, this is important.

The Master: Oh, no.

Mr. O'Brien: We will come to it in time. Exception.

Q. Then the entries are made for rentals and for sales of appliances on the same ledger as gas consumed?

Mr. Ransom: Objected to. Fully covered.

The Master: Objection sustained.

17867 Mr. O'Brien: Exception.

Q. And the bills going out to a consumer who rents an appliance or buys one, contain the appliances and—

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Or are they separate bills?

The Master: Objection sustained.

Mr. O'Brien: That has not been brought out your Honor.

The Master: I won't allow any more questions.

17868 Q. Is there a separate record kept of the labor and material bills incurred in connection with appliances?

The Master: Objection sustained.

Mr. O'Brien: Your Honor, I suppose, assume that your two general questions asked the witness cover all these matters, but I do not think they do.

The Master: I shall rule that you having made a record that there is an appliance business to which a good deal of time is devoted by men on the general pay roll, the appliance business, utilization department, and the work done in inducing people to use more gas and to the selling

of appliances for that purpose is all a legitimate part of the gas business.

Mr. O'Brien: I would like to submit, if your Honor is going to make a ruling, a memorandum on that matter.

The Master: No use arguing it, Mr. O'Brien.

Mr. O'Brien: Well, I am saying to your Honor that you are putting this case out of court when you make that ruling.

The Master: Well, then it is out of court, and the quicker it gets out of court the better I will like it. 17870

Mr. O'Brien: Well, that is what it means.

The Master: Well, that is what I am going to report as my opinion, and you will have to get some other judge to reverse me.

Mr. O'Brien: Well, I will make my record, if I may be permitted.

The Master: I permitted you to make your record.

Mr. O'Brien: I don't want a ruling at the outset on this matter that will preclude me making my record.

The Master: I have let you make your record, and I won't let you make any more record. It is a waste of time now. 17871

Mr. O'Brien: But these matters I must go into.

The Master: No, you must not.

Mr. O'Brien: I want to give the court on appeal an opportunity to know something more.

The Master: I have allowed you to go to the point where I think the record is clear and contains all of the facts upon which you can argue that I am in error as to my ruling.

Mr. O'Brien: But if it involved only a few

17872 Henry M. Brundage, Cross.

dollars and the expense incidental to the appliance business was, comparatively speaking, a small amount of money, it might be held to be not important in this case but, therefore, it is essential that the record should indicate the extent to which this business is included in and a large amount of time and money consumed in trying to run an appliance business.

The Master: I think the record shows that sufficiently.

Q. Mr. Brundage, on page 1417, you referred, in
17873 explaining the books of account, you said, "A record has been maintained in the manufacturing station as to the quantity on hand, we will say at the beginning of the month. All coal that is delivered during the month is weighed by the receiving station, entered in a log book, and a permanent record maintained at the station by the clerk of the station as to the receipt of coal. This record provides a means by which the superintendent is enabled to say that on a given date from a certain shipper he received a certain quantity of coal, and that receipt voucher comes to the accounting department and forms a part of the basis upon which the accounting department is justified in ap-
17874 proving that bill for passing through the accounts." Do you refer there to the manufacturing book?

A. I refer there to two records; the record received from the yard foreman as to the material coming in and the summary of those receipts for the day entered in the manufacturing book.

Q. When you say it is entered in a log book, do you mean the manufacturing book?

A. No, I had in mind there a record that is maintained in the stations in which material is recorded in sequence as items come in.

Q. Is that a permanent book or a loose-leaf book, or is it separate sheets of paper on form?

A. My recollection is that at 21st Street it is in the shape of a book, and at 99th Street it is recorded on a form.

Q. Do you rely upon the manufacturing book for a record of the coal used?

Mr. Ransom: Objected to as incompetent. It has been fully covered.

The Master: I will allow it.

A. The accounting department relies upon a statement of the superintendent of the station that on a certain date he received certain material.

By the Master: 17876

Q. You do not see the manufacturing book?

A. I do not, sir.

Q. You do not see the log book?

A. I do not, sir.

Q. All you see is the superintendent's report?

A. Signed by him; yes, sir.

Q. That is what you make your entries from?

A. We do, sir.

By Mr. O'Brien:

Q. Do you use the manufacturing book for purposes of audit?

A. I do not.

Q. Does any of the accounting department use the manufacturing book for purposes of checking up the record of coal received and coal used? 17877

A. There has been occasions when the accounting department have gone to the station to verify the accuracy of a voucher where there might be some dispute.

Q. What book do you use for checking up purpose?

A. For such an examination as I am now describing?

Q. On coal received and coal used, what books do you use for checking up, for verifying the statements

that are made periodically to you by the superintendent of stations?

A. They would check it first against the station record, and further they would go back to the original record from the yard foreman.

Q. Do you mean by the station record the report sent in to the main office?

A. The report of manufacture, you call it.

The Master: The manufacturing book.

The Witness: That long book; yes, sir.

Q. They check it first, then, from the manufactur-

17879 ing book?

A. Because that summarizes all the receipts of coal for the month, and that summary, as I testified already, comes down in an engineer's monthly report signed by him. So anybody checking it would just follow that routine right back to its original source.

Q. All of that is taken right off the manufacturing book?

Mr. Ransom: I object to the question.

Q. Then he goes back, you said, to the original sources from the manufacturing book?

A. Anyone checking them would do that very thing, sir.

17880 Q. Do they do it, your men?

A. When we have had occasion to make any check that is the process we used.

Q. How often do you do this checking?

A. At no stated intervals.

Q. Once in two years?

A. There have been occasions in my time with the company when we have made a check of these items.

Q. Once in three years?

A. Well, there were no stated intervals.

Q. Would it be as frequent as once in three years or once in two years?

A. Having been with the company sixteen years, every three years would mean five times. In my time it has been done more often than that.

Q. Would you say seven times?

A. Probably so.

Q. And the checkers do go back, do they, to the original entries in the log book?

A. They go back to the original record, yes.

Q. And the auditors that periodically are called in, do they go back that far to the station records, the manufacturing book?

Mr. Ransom: Objected to as immaterial. 17882

The Master: I will allow it.

A. The auditors, and by that you mean these outside people whom we engage once a year—

Q. Who was it, Mr. McCullogh & Co.?

A. Yes.

The Master: Church & McCullogh.

The Witness: They have each year made a check different from that made during the preceding year. I recall at one time giving them a letter to one of the station superintendents, where they went and presumably did that very thing. Then one year I recall they went and looked into the records of the fitting shops, picking out one 17883
shop as a sample. Then several times they have gone through one of the branch offices for the purpose of checking that record.

The Master: They do not do the same thing every year?

The Witness: They do not, your Honor, but each year they do a different thing in order to get a check on the accuracy of the supporting data leading up to the general books of account.

Q. Making tests?

A. Making tests, sir.

17884 Henry M. Brundage, Cross.

Q. In no year do they go the limit of reaching the underlying data in each branch?

A. Oh, it would be a voluminous task and take entirely too much time.

Q. It would be an endless task?

A. Yes, sir.

Q. These audits they get up are for what purpose?

Mr. Ransom: Objected to. It has been fully covered.

The Master: I will allow it. I do not see why you object to a statement like that.

17885 Mr. O'Brien: That is what makes the case mysterious, is the Judge's constantly holding up the veil and the stops on it.

A. In order that the officers of the company might be satisfied that the accounting systems prescribed by the Commission, and which the officers endeavor to carry out, is being carried out, and that the final reports submitted by the accounting department are true and correct statements as recorded by the books.

Q. Have you the audits on file from the time they began them—Church & McCullogh?

A. Reports of the audits? Yes, they are a matter of record.

17886 Q. And filed in the secretary's office?

A. Yes, sir.

Q. Do you use the same auditors on the affiliated companies?

A. I have no knowledge as to whether the audits by outside people are made of the other companies' accounts.

Q. You would of the Astoria Company—you would know that?

A. In the Astoria they have not made such an audit.

Q. Do they have any audits made by an outside firm?

A. No. No, the Astoria's books have not been audited by an outside firm.

Q. In the case of transferred gas has there been any occasion where the complainant had to send bills to the affiliated companies for gas furnished them?

A. From us to them?

Q. Yes.

A. Yes.

Q. Has there ever been any dispute on the part of such companies over the quantity of gas furnished or the price charged for it?

A. Not so far as I know, sir. 17888

Q. And you bill it to them at what cost?

A. At our station cost plus ten per cent.

Q. Ten per cent on what?

A. On the station cost. The station cost plus ten.

Q. And that practice has gone on during all the time in which there had been this intercorporate gas business?

A. Oh, yes, many years, Counselor.

Q. Has there ever been any complaint made over the bills?

The Master: Objection sustained. It has already been covered.

Mr. O'Brien: What was the answer to that? 17889

The Master: He said no.

Q. There never has been a complaint set up?

The Master: Objection sustained.

Mr. O'Brien: I would like to give the witness full opportunity.

The Master: Do not give him any opportunity at all.

Mr. O'Brien: He changes his mind once in a while, your Honor, and your Honor changes his mind once in a while.

The Master: Not very often.

17890 Henry M. Brundage, Cross.

Mr. O'Brien: On new information.

The Master: Not very often.

Mr. O'Brien: You did yesterday.

The Master: Of course, if something turns up that prevents a new situation I am going to change my ruling.

Q. Will you tell me, Mr. Brundage, whether the matter of adding to the cost of the coal, the invoice cost of the coal at several stations, the cost of handling is added to the invoice cost before the bill leaves the station and the superintendent's hands?

17891 A. I do not quite follow the question, Counsellor. Say it again, will you?

Q. Coal is delivered at the stations from the barge, it is weighed, bills are rendered, invoices are rendered.

The Master: By the coal men.

Q. (Continued.) By the coal men. Is the cost of handling that coal and particular delivery, we will say, added to the invoice price by the superintendent at the station, or is that cost of handling added after the invoice reaches the main office?

A. The superintendent has nothing to do whatever with the making out of the cost of coal. The ac-

17892 counting department charges to their coal pile the invoice cost of the coal and the cost of handling it, being performed by station labor, reaches us through the station pay roll and is charged to the coal pile under a specific designation "handling coal," with the result that we get into our book account for the coal pile, both the invoice cost and the cost of handling.

Q. How frequently is that labor item added to the coal account of a given station?

A. Every week as it comes from the pay roll.

Q. And is it estimated in any case?

A. Why, no, it is a matter of recorded fact. So

many dollars paid to labor for handling that coal from the point of shipper's delivery to the coal pile.

Q. In the case of laborers, then, who may be bringing in coal from the dock and delivering it to the generator house, as at 99th Street, do you allocate a portion of their day's wage to the handling of coal and another portion to work in the generator house?

The Master: The objection is sustained. The record is replete with explanations by this and other witnesses on that point.

Mr. O'Brien: I do not know whether your Honor appreciates what the question is intended 17894 to bring out.

The Master: Yes, I do. This witness and other witnesses have testified that the pay roll shows precisely the work that the men were engaged on. When they are engaged on handling coal to the pile, it is charged to that; when they are engaged on producing gas it is charged to that.

Mr. O'Brien: I am talking about men who were engaged on two things on the same day.

The Master: Yes, they have time sheets showing that.

Mr. O'Brien: I have in mind the hypothetical 17895 statement was made here by Mr. Woods.

The Master: I do not care about the hypothetical statement.

Mr. O'Brien: Where he separates coal handling from the other expenses in making gas.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Do time books covering the work and the labor at the stations come in to the head office with the pay roll as the work tickets?

The Master: Objection sustained. The rec-

ord shows that the pay roll has a number reference to the account to which the time is to be charged, as I recall it.

The Witness: It comes in on time cards, signed by the superintendent, for each man.

The Master: It is identified by the number of an account?

The Witness: Absolutely.

Mr. O'Brien: I wanted to ask the witness if both the time books and the time cards come in with the work ticket, because I am looking at page
17897 1420, folio 4258 of the record, the statement made by the witness.

The Master: Well, I am thinking of all the record down to date. Objection sustained.

Mr. O'Brien: Exception.

Q. You stated on page 1423 of the record that the general office pay roll department makes up the pay rolls for all the employees of the complainant who are engaged upon an hourly basis?

A. Yes, sir.

Q. What employees are engaged upon an hourly basis?

A. All of the station men, street department men,
17898 shop men.

Q. Since what date?

A. I should say that that has been the practice for six or eight years.

The Master: You mean hourly basis of day laborers?

The Witness: The rate is much per hour.

The Master: For some years?

The Witness: For some years, yes, sir.

Q. And they are so listed on the pay roll and time books, so much an hour?

A. In the pay roll records, so much an hour, yes.

When they are first taken on the pay roll they are put on it at so much per hour.

Q. For the last six years?

A. About that I should say.

Q. Do you depend entirely, I mean to a large extent, upon the badge for the purpose of identity of a laborer, more than the name?

A. No, I could not say that. We depend upon the badge, it is an additional identification; but when we take any employee on we get his name, and so record it.

Q. What is the idea of having the badge, giving 17900
a man a number?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. What was its purpose?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. How long has it been in vogue?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. When you spoke about the Committee of Accounts on page 1427, appointed by the board of trustees, did you mean a committee of employes in the 17901
accounting department?

A. I did not; I meant a committee from the board of trustees.

The Master: A committee of the board?

The Witness: A committee of the board.

Q. Is that the same as the executive committee?

A. No, sir.

Q. Its personnel is different?

A. Entirely, with the single exception that President Cortelyou is a member of both committees.

Q. Who are the committee now?

A. The committee of accounts?

Q. Yes.

A. Mr. Cortelyou, Mr. Samuel Sloan, Mr. Donald Geddes, Mr. Louis M. Greer.

Q. Was the committee the same during the year 1918?

A. Yes.

Q. How frequently do they go over vouchers?

A. Once every month.

Q. Do they go over all the vouchers?

A. They do, they require me to produce every voucher in support of every payment we have made.

17903 Q. Do they examine physically each voucher?

A. No, I could not say that; they do not go over every item, for there are thousands of them. They examine a great number of them.

Q. How long do they spend on that work?

A. The committee of accounts usually meets at 9 o'clock, and their meeting is never over before 10:30 or 10:45.

Q. I believe you stated that you had 18,000 sundry creditors' vouchers?

A. Individual vouchers, yes, sir.

Q. In a year?

Q. Yes, sir.

17904 Q. Do they pick out the bigger amounts and go over them, or do they depend upon some one's inquiry as to the vouchers they pick out?

A. They pick them out at random.

Q. And they call you in to ask about them?

A. They require me to attend the meeting in order to answer any questions they may wish to raise.

Q. Do they get any of your subordinates there?

A. No, never had occasion to call one.

Q. Does Mr. Carter appear before them?

A. He has been there frequently.

Q. Well, the amounts of money spent by executive order cover what particular classes of expenditures?

A. I am a little in doubt about what you mean by executive order.

Q. Well, some payments are made on the O K of the president of the company?

A. Yes.

Q. Have you stated that it was paid on executive order?

A. Yes.

Q. Now, what classes, if they are classified, what classes of expenditures go through that way?

A. The bills for services rendered—pardon me, not bills, but payments for any services rendered, news- 17906
paper advertising, and that class of expenditures—

The Master: Legal expenses?

The Witness: No, legal expenses are in the shape of a retainer which we pay to our general counsel, and occasionally other bills, but there is always a voucher which would go through the accounts.

Q. Will you not particularize. You say for services rendered. What do you mean by services rendered?

A. There might be some service rendered by somebody, some individual which would be submitted to the president for his approval. I know that the news- 17907
paper advertising bills are all approved by the president. Bills for advertising the annual meeting, items of that nature are approved by the president.

Q. What other payments?

A. Our tax payments, payments of taxes are approved by the Vice President, Mr. Carter. All taxes are approved by him. That is all I think of.

Q. Do the general books of account indicate that they are on executive order?

A. No, sir, the voucher itself shows who approved it

Q. Only the voucher?

A. The voucher itself is the original source of information and shows the whole story, who approved it, who authorized it, and bears the auditor's approval.

Q. Does the president send a memorandum along with it at the time, or is it just on his signature or O K?

A. We would pass a bill on his signature.

Q. You do it on his signature?

A. We would, sir. I have never had occasion to question it.

17909 Q. Well, naturally you would not?

A. I would not.

Q. When it comes in to the committee on accounts, does it have a memorandum from the president explaining the nature of the expenditure?

A. The voucher itself would be submitted to the committee on accounts.

Q. Does the voucher itself give the detail, the whys and wherefores of the expenditure?

A. Well, I am a little in doubt how to answer that question. It would depend on the voucher, what the voucher was for.

The Master: Some would show it in detail
17910 and some would not?

The Witness: Yes.

Q. And some do not?

A. Some might not be so specific.

Q. The voucher is not made by the president, is it?

A. Vouchers have been made up in the president's office, yes, sir. We have a standard form of voucher, as I have already testified to.

Q. What I am driving at, is there a memorandum from the president accompanying a voucher that explains what it is and the reasons and the excuses for the payment, or do some vouchers come through with

simply his O K, the name of the person and the amount of money?

A. I rather object to your statement about excuses for payment.

The Master: Don't bother about that.

Mr. O'Brien: You are not sitting as Master here, you know.

The Master: These bills do not come with any speech by the president as to why he employed Mr. Jones to do something, do they?

The Witness: I do not recall ever having had any memorandum from the president attached 17912
to a bill which he has approved and sent to me for payment.

The Master: That is the answer you should have made five minutes ago.

Q. Can you tell any other classes of expenditures that are handled in that way, that are paid on the O K of the president of the company?

The Master: Objection sustained as already asked and answered. You asked him first to tell you what he recalled, and then you followed him up and asked, "Are there any others," and he said, "Not that I recall," and now you are asking him again. Objection sustained. There 17913
is no use asking the same thing three times.

Mr. O'Brien: Exception.

Q. Are these payments journalized?

The Master: Objection sustained.

Mr. O'Brien: I do not understand that, your Honor.

The Master: I am not going to explain it, it takes too long. Objection sustained.

Q. On pages 1429 to 1432 you narrated the various classes of reports that are made to the main office. Are they all kept on file in the main office?

A. They are.

Q. Are they preserved from year to year?

A. They are.

Q. Did you give there every kind of report that is sent from the branch offices and the station offices to the main office?

A. I did.

Q. You prepared that list yourself, did you?

A. I did not.

Q. Who prepared it for you?

A. Mr. Armstrong.

Q. You mean the comptroller?

17915 A. I do.

Q. Is he under you?

A. He is.

Q. Takes orders from you?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

Q. Are you taking his word for it that these were all the reports that came in?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. You stated at page 1435 of the record that you took an inventory periodically. Did you mean an in-

17916 ventory of all the property of the complainant?

A. I did not.

Q. Of what properties did you mean?

A. Materials and supplies.

Q. How often is that taken?

A. Once a year.

Q. At what time?

Mr. O'Brien: Objected to.

The Master: Objection sustained as fully covered in the preliminary cross-examination.

Mr. O'Brien: Exception.

Q. Do the monthly reports turned in by the super-

intendents of the stations contain a report of coal sent to other stations of the company or the affiliated companies?

Mr. Ransom: Objected to.

The Master: Objection sustained as fully covered.

Mr. O'Brien: Exception.

The Master: You have forgotten your cross-examination before I let the books in.

Mr. O'Brien: No, I have not. I have that before me, but I want the answer of the witness. I do not know how many times in our examination preliminary to the admission of the books the Master stated that we could bring that up on cross-examination. Now, when I go into these matters that came up at that time— 17918

The Master: The trouble is you misunderstood my ruling. On all matters of that kind I ruled you had had sufficient cross-examination. I always said and repeat now, that any matters of substance not covered by the preliminary cross would be allowed. I never intended by that that you should be permitted to go over the same ground again. It is perfectly absurd.

Mr. O'Brien: What I am driving at, your Honor, is the limitation put upon my examination. The question then before us was the admissibility of the books, and now when we are on this subject, because a matter may have been touched on before there should not be a limit put on my cross-examination. 17919

The Master: Not if there is anything new.

Mr. O'Brien: As to the question of the inventories, the manner in which it was done, who takes them—

The Master: It was fully covered before. Why go over it again?

Q. Mr. Brundage, do you make up the reports to the Public Service Commission?

A. I do.

Q. Do you make an affidavit at the close, or does the superintendent or chief engineer of manufacture?

A. The Public Service Commission's law requires that the report be signed by the president, treasurer or general manager or receiver of the corporation making the report. Ours is signed by the president and treasurer.

Q. And the work of getting it together and as-
17921 sembling it and setting it up is done by you?

A. It devolves upon me, yes, sir.

Q. And that has been the practice for several years?

A. Since the reports were instituted.

Q. And did you get up the Annual Report of the Astoria Company?

A. I do.

Q. And perform the same functions with regard to that that you do with regard to the complainant company?

A. I do.

Q. Is there any branch of the report that you take from some other department of the complainant com-
17922 pany?

A. Yes, sir.

Q. What branch, or what portions of it do you take from some other department?

A. There are a great number of pages of the Anual Report to the Public Service Commission relating to the physical plant that I take from the engineers. There are several schedules relating to the distributing system, mains and services, at the beginning of the year, added and removed during the year, and balance at the end of the year, which I take from the Street Department. There are several pages, several sched-

ules respecting stockholders' meetings, which I take from the secretary's book. There are several schedules respecting statistics as to labor, which I take from the Pay Roll Department.

Q. Does that cover about all?

A. That covers about all. All the financial matters are matter of record in the Accounting Department, and I put them together for them.

Q. You use the same procedure with the Astoria Company in the matter of the sources of the information for the Annual Report?

A. The same general procedure. 17924

Q. And do you get up the supplementary data, the amendments to the report, too?

Mr. Ransom: Objection.

A. I don't know what you mean. Do you mean if they ask for—any criticisms, yes.

Q. Yes. You know every year there are answers to criticisms?

A. Yes, I prepare those also.

Q. And in both instances, in the case of the complainant and the Astoria Company?

A. Yes.

Q. Do you prepare the Annual Reports of the New Amsterdam Company for the Public Service Commission? 17925

A. No, sir.

Q. Do you have anything to do with them?

A. Nothing further than I have testified.

Q. Do you supervise the preparation of them?

A. I do not.

The Master: The objection is sustained. My recollection is perfectly clear that this was asked of the witness before, and he said he had nothing to do with it, but that the officers of those other companies will ring him up and ask him fre-

quently what answer he gave to some inquiry of the Public Service Commission, and he will give them that, and tell them how he handled something when they ask him. Objection sustained.

Q. Did you get up all the answers to the criticisms of the 1918 report?

Mr. Ransom: I object on the ground there is no indication that there was any criticism.

The Master: Have you finished your question?

Mr. O'Brien: The witness used that word, I

17927 did not.

Mr. Ransom: The witness did not use the term criticism.

The Master: Have you finished your question?

Mr. O'Brien: I will just show Judge Ransom he is wrong. Read the answer made by the witness in answer to my question.

The Master: No.

Mr. O'Brien: Just a minute, your Honor.

The Master: No. Have you finished your last question?

Mr. O'Brien: I have not.

17928 The Master: Well, then, finish it. You do not have to prove anything to Judge Ransom; you have enough trouble proving things to me.

Mr. O'Brien: I will have to ask the question over again.

Q. Did you prepare the answers to all of the criticisms of the Public Service Commission to your Annual Report, the complainant's Annual Report, for the year 1918?

Mr. Ransom: Objected to on the ground that there is nothing to indicate there was any criticisms.

The Master: The objection is sustained, not on the ground stated by counsel, but on the ground the witness has already answered this question. He says he gets up all the answers.

Q. Did you prepare the answers to the criticisms, or the requests for additional information, of the Public Service Commission, in connection with the Annual Report of the Astoria Company for the year 1918?

The Master: Same ruling.

Mr. O'Brien: Your Honor, these are matters of very great importance. I can't stop to tell you 17930
the reasons why for everything I am asking, and I do not want a blanket answer, you know.

The Master: I understood the witness to say that he always got up the statements, in answer to inquiries by the Public Service Commission. If I understand English, that means if there were any for 1918, he got them up. If I am not correct, the witness will so state.

The Witness: You are correct, your Honor.

Q. In the matter of the checking up of the accuracy of the reports made by the station offices, the superintendents' monthly reports, do you check up the labor acount to any extent by reference to the manu- 17931
facturing book?

Mr. Ransom: Objected to as fully covered.

The Master: I will allow it.

The Witness: We do not check up the labor against the manufacturing book at the station, because the labor comes to us on individual time cards signed by the superintendent and is the basis of the pay roll.

Q. I hand you, Mr. Brundage, the vouchers covering transferred gas sold by the New York Mutual Gas Light Company to the complainant company, and ask you if you have seen that before?

17932 Henry M. Brundage, Cross

A. I have; a number of them bear my approval.

Q. Wherever it says "approved, H. M. B. Assistant Secretary," that means you?

A. It does.

Q. And whose signature on this voucher represents an O. K. of the Mutual Gas Light Company?

A. There is no O. K. of the Mutual Gas Light Company. The bill was rendered by them to us.

Q. Well, look them over there and see if there are any initials put on there by any employee of the Mutual Company?

17933 Mr. Ransom: I object to the question relating to these monthly bills as rendered on the ground that it appears from the testimony that all of these monthly bills as rendered from month to month were cancelled in the manner in which the witness described yesterday, so that the only bill which enters into the matter of the company's expenses as involved in this case, is the bill at the end of December.

The Master: Objection overruled.

Mr. Ransom: That is the only bill that enters into any accounts which are here under attack, which affects the company's expenses in

17934 any respect, is the bill at the end of the year after it has been established what has been the actual flow of gas one way or the other during the year. These are just like any other bills which have been cancelled and superseded.

The Master: Objection overruled.

Q. What was your answer?

A. I find no mutual or anybody connected with the Mutual Gas Light Company on these bills.

Q. Why is this T. H. B. down here?

A. I don't know any such mutual. That is T. H.

N

Q. And who is he?

A. A man by the name of Nickerson, one of Mr. Carter's men.

Q. Nicholson?

A. Nickerson.

Q. Confidential inspector?

A. He is one of Mr. Carter's clerks.

Q. And who is F. L. L., that represents whom?

A. That is the auditor, Mr. Lambrecht.

Q. And is this F. H. B. up here?

A. That is F. R. B.

Q. F. R. B.? 17936

A. Yes.

Q. That represents whom?

A. That is Mr. Barnetz, one of the assistant secretaries, who signed one end of the check. Just above it you will find B. W. That is Mr. Wheatly, the assistant treasurer. Those two men signed the check. Their signature bears evidence that they signed a check covering that bill.

Q. And are any of those men officers or employees of the Mutual Company?

A. No, sir.

Q. What does "P" in red ink mean, down beneath the total amount (indicating)? 17937

A. It does not convey any impression to my mind, sir.

The Master: That "P" appears on all of these vouchers, or practically all of them.

The Witness: This thought occurs to me, your Honor: The vice-president of the Mutual Gas Light Company is a man by the name of Parkhurst. It may be that he checks that bill through his accounting department and puts that "P" on before it comes to me. I never noticed it before and never connected it with anything he

17938 Henry M. Brundage, Cross.

did. That is the only explanation of why that is there.

The Master: That is the only explanation that you could give?

The Witness: Yes. It is not any check that we put on, though.

Q. When you marked that "Approved," did you do so in the belief that the complainant company has received from the Mutual Company gas to the amount of $62,863.04?

A. If I had not so believed, I should never have ap-
17939 proved that bill.

Q. Why did you change the form of the expression?

The Master: Objection sustained.

Q. Did you have anything to do with the wiping out of these figures at the end of the year and setting them up in a different way?

A. I did not.

Q. Did you go into that at all except in the manner you testified yesterday on the O K from Mr. Carter's office?

A. When Mr. Carter's office had checked that bill and sent it to me, in Mr. Carter's absence I approved
17940 the bill.

The Master: No, at the end of the year.

Mr. O'Brien: He had it right your Honor.

The Master: Did he?

Mr. O'Brien: I referred to this particular bill at the time of payment.

Q. Your work as chief accountant or assistant secretary does not extend so far as to go into the books of the Mutual Gas Light Company to find the cost their books represent of making gas?

A. Not in any way, Counselor.

Q. Do you know whether anybody does that connected with the complainant company?

Mr. Ransom: Objected to. That was fully covered.

The Master: I will allow this.

The Master: I believe that Mr. Carter's people confirmed the accuracy of the station cost as reflected in these bills.

Q. These bills that I have handed you, covering the whole year, and the relations between the complainant company and the Mutual Gas Light Company so far as transferred gas is concerned, are all made out on forms printed by the complainant company?

A. They are. 17942

Q. A uniform form being used throughout?

A. We do.

Q. And that is true also of the other companies with whom you have relations, as to gas transferred?

A. And with every other creditor.

Q. On the back of this voucher we have a blank space, "Receipt voucher agrees with invoice," have we not?

A. A printed form, yes.

Q. And a blank then for the insertion of some memorandum. That is blank. There is no insertion in this particular voucher?

A. There is not. 17943

Q. Then you have "Extensions and footings correct" printed on the back?

A. Yes.

Q. And in the blank space the initials in ink, "C. E."?

A. Yes.

Q. Is he one of your subordinates?

A. He is.

Q. What is his name?

A. Charles Eble.

Q. Then in the next line, "Entered in contract book" the blank is not filled in?

A. No.

Q. And there is no memorandum set opposite the words, "Checked against order"?

A. No.

Q. On the same line with the word "Indexed" you have the initials "G. G."?

A. Yes.

Q. And he is one of your subordinates?

A. He was until he left us.

17945 Q. What is his name?

A. George Grosse.

Q. Then you have "Deductions checked and found correct" and a blank opposite that?

A. Yes.

Q. "Classification checked" and the initials "J. C."?

A. Yes.

Q. Who was he?

A. One of the auditor's clerks.

Q. You mean one of the clerks of the auditor of the company?

A. Yes, sir.

Q. The complainant company?

17946 A. Yes.

Q. And "Voucher checked," that is also a blank?

A. Yes.

Q. Then you have "Gas transferred 62,863.04"?

A. Yes.

Q. That means dollars, though it has not the dollar sign?

A. It does.

Q. Why was the amount of gas in cubic feet omitted from these vouchers and only the money put upon the voucher?

A. That has been the practice, Counselor, all the years I have been with the company.

The Master: The Astoria, I notice, gives you the cubic feet.

The Witness: They do. These gas transferred bills have been rendered in that exact form for many years, your Honor.

Q. Will you take that and make reference to some book that will give us the data?

A. Some books that would give us the data?

Q. Yes.

A. As to what?

Q. Sundry creditors' ledger or folio, say. I want the quantity of gas covered by that particular bill. 17948

The Master: I would imagine the entry in the book would be the same as that.

The Witness: You would not find it in the books. The sundry creditors' ledger, Counselor, will simply record this bill in the name of the company, a certain number of dollars. You want sundry creditors' ledger, 1918.

Q. The sundry debtors' blotter would not have the information?

A. No, sundry creditors' ledger, and index. (Witness produces books and indicates.)

Q. In whose handwriting is that account "New York Mutual Gas Light Company, 142 East 15th Street," on page 422 of the sundry creditors' ledger for 1918 kept? 17949

Mr. Ransom: Sundry creditors' ledger No. 17.

Mr. O'Brien: No. 17.

A. That is in the handwriting of Mr. Furey.

Q. What is his first name?

A. Bartholemew G. Furey.

Q. Is he still with you?

A. He is in the hospital at Rondout, dying.

The Master: Where?

The Witness: At Rondout.

Q. Had he been with the company some time?

A. Many years. He was the oldest employee in the accounting department.

Q. Will you find this amount of $62,863.04?

A. I will.

Q. That is on this page 422?

A. It is.

Q. I note that you have here in this account with the Mutual Gas Light Company other credits, an entry of January 7th, 1918, "By commission." What
17951 does that mean—10.12?

A. The voucher from which it is posted will show the data. I am unable to say from that record.

Q. Do you not think you can tell us about what it means?

A. No, the voucher itself would tell us better—would tell the full details.

Q. Do you credit them with commissions on gas that they sell?

A. No. There is some kind of an arrangement for commissions paid by the companies to salesmen for getting business, the details of which I am not familiar with.

17952 Q. Do you mean to say you are not familiar with something that was about 50 entries on this book, of payments made, credits made to the New York Mutual Gas Light Company?

A. I mean to say I have put through 18,000 vouchers in this ledger and I cannot be expected to carry all the details in my mind.

Q. You cannot say what any of the thirty-one entries on this account mean, where they have "By commission" and certain dollars carried out in the dollar column?

A. I cannot.

17953

Q. Have you any vague idea of the transaction that is supposed to be covered by those credits to the Mutual Gas Light Company?

A. Except that vague idea that I just described to you, sir.

Q. You think they are employees selling appliances and that it is credited to them?

A. On our district, yes. The voucher would tell it, Counselor, much better than I could hope to do from memory.

Q. Have you those vouchers in court?

A. I have not.

17954

Q. Are any of them in court?

A. They are not.

Q. There is not a sample here?

A. No. All these vouchers have been submitted to your examiners.

Q. You have not them here anyway, and you can not tell us, that is all?

A. No.

Q. What does this entry mean here, "Gas App. 933.77"?

A. Gas appliances.

Q. Does that mean something that they loaned to you or sold to you?

17955

A. They certainly did not loan it to us. It must have been a sale, I should say. My general answers to the other questions would apply to this one. The voucher itself would tell you definitely.

Q. I ask you if you know, Mr. Brundage?

A. I do not.

Q. You simply say whether you do or not?

A. I say I do not know.

Q. Then the same answer you would give us for all of the various items so itemized, "Gas App."?

A. I would.

17956 Henry M. Brundage, Cross.

Q. There is an entry made here crediting them with a certain amount under the title, "Flinn & O'Rourke."

The Master: What is the amount?

Mr. O'Brien: It is a small amount, $20.54.

The Master: That is what I wanted to know. Do you know what that is?

The Witness: I do not.

Q. Opposite this amount—

The Master: Wait a minute, Mr. Brundage thinks he may be able to recall what that is.

The Witness (after examining book): I do

17957 not.

Q. Do you get pipe and fittings from the Mutual Company from time to time?

A. No, sir.

Q. Do you interchange material of any kind from time to time?

A. I do not recall such a case. I can say that perchance we might buy from them a particular kind of appliance or a few appliances that we have a demand for and do not have in stock, and we would buy it from the first company available.

Q. How do you explain this entry here of December 31, 1918, "Labor and Material, $60,890.05"?

17958 A. It is one of the bills you have in your hand.

Q. But is not every bill for gas transferred entered in this account under the title "Gas"? Look down from month to month and see if the amount of gas is not so called in the book, where a payment is made for gas?

A. It appears to be.

Q. Can you without guessing at it tell us what this entry of December 31st, 1918, labor and material, $60,890.05, credited to the New York Mutual Company on this sundry creditors' ledger, No. 17, means?

A. I can.

Q. What is it?

A. It is the bill for gas transferred.

The Master: And the voucher for which is in Mr. O'Brien's hand.

The Witness: I believe he has it in his hand, your Honor, and he is asking why these items are marked "Gas" through here and this item (indicating) is not. I note that all these postings to this point, Counselor (indicating), are in the same handwriting, Furey's. Those last three amounts entered under date of December 31st are entered under a different handwriting, 17960
and I now recall Mr. Furey, who was in charge of this work, collapsed and went to pieces between Christmas and New Years, and he took this wording from the old bill rather than the wording "Gas."

Q. Do you think that is your best guess on the subject?

The Master: Objection sustained.

Mr. O'Brien: I want to show that his guess is wrong.

The Master: Then show it.

Mr. O'Brien: I am going to do some guessing if the witness is. Look at this word "gas" 17961
right under there, the 31st of December, when you say Furey was sick.

The Master: The trouble is you are not trying a Municipal Court case here. If the witness has made an error call it to his attention. You do not have to fence around with him.

Mr. O'Brien: I want the witness's best answer, and if he is frank we will get along more quickly.

Q. There is an entry of gas $6,268.86 on this account?

A. I see it, yes, sir.

The Master: How much?

Mr. O'Brien: $6,268.86.

Q. It is right under an entry made for labor and material in the amount of $60,890.05 on the same day, or at least under the same date. Now, is not that word "gas" in the same handwriting as all the others? Look at the letter "g"?

A. It is not.

Q. That is your idea of handwriting, is it?

A. Look at it.

Q. Well, I have been looking at it.

17963 The Master: That is enough; you have the witness's answer. He says it is not and you think it is. I am not going to act as a handwriting expert.

Q. Mr. Brundage, will you explain why there are two entries made on the same date, December 31st, one of which I had given in the amount of $6,268.86, the other in the amount of $60,890.05, one called "labor and material" and the other called "gas," if they all mean gas?

A. They are not all entered on the same date. The dates that you are looking at are the dates of the bills.

17964 Q. Do you mean that it might be some other date?

A. It might have been entered some other time, but the date you look at there is the date of the bill.

Q. Is that the practice of the company in every instance, to put into these general books of account, in connection with merchandise purchased or labor purchased or gas purchased, the date of the bill?

A. Yes, sir.

Q. And not the date on which the entry was made?

A. Certainly not. The date of the bill.

Q. Do you say that in the face of the statement that you made when I asked you about the Astoria Company's entry of bills, that when—

17965

The Master: Mr. O'Brien.

Mr. O'Brien: Wait a minute, your Honor, until I put this question.

Q. (Continued.) When the bill came along it was charged up to this month?

A. I say that every sundry creditors' bill goes through our accounts in both companies under its date.

Q. Will you look this up and just tell us whether it actually is gas or not?

The Master: Wait a minute. Have you got an item there of $60,890.05?

17966

Mr. O'Brien: Yes.

The Master: What date is there?

Mr. O'Brien: December 31st.

The Master: That voucher shows it was audited January 8th and passed for payment January 14th and paid January 7th. There is another one for $6,268.86. That is dated December 31st in that book, is it not?

Mr. O'Brien: Yes.

The Master: The voucher itself shows it was paid January 7th, audited January 8th. I do not see how it could be paid before it was audited and passed for payment January 14th by the executive committee. How is it that these vouchers show it was paid on a date earlier than it is passed for payment by the executive committee?

17967

The Witness: It might occasionally happen, your Honor, in bills where there is a perfect routine going on, that the bill will be paid before it is audited. It is not a customary practice, but it occasionally happens.

The Master: Then the cancellation charge

of the bill and credit for gas transferred during the year are both dated December 31st, but were apparently passed for payment January 21st and audited January 16th.

Q. Were these charged to the operating expenses of 1918?

A. They were charged or credited, both kinds being entered there.

The Master: They entered into the operating accounts for 1918?

The Witness: They did, sir.

17969 Q. What does this entry mean here on December 31st, a debit, "Gas Adj. No. 18307, 619,842.63"?

The Master: Objection sustained on the ground that the voucher is in court and in the possession of counsel, and a reference to the voucher will show what it means. The Master has looked at the voucher and therefore calls attention to it. What they did was to cancel all the previous bills, give them credit for it, and then made a new charge?

The Witness: Yes, sir.

Q. Mr. Brundage, since neither the voucher of the Mutual Gas Light Company nor the sundry creditors

17970 book No. 17 contains the number of cubic feet of gas supposedly covered by the dollars on these vouchers, where will one go to find the number of cubic feet?

A. To the secretary's office.

Q. Does the Mutual Gas Light Company send a memorandum with their voucher giving the number of cubic feet?

A. I believe they do, but I cannot testify positively as to that fact. A record is maintained in that respect by the secretary's clerks.

Q. Well, you have an entry here on March 23rd, the Underpinning & Foundation Company, $636.38.

Do you know what that credit was made for in this Mutual Gas Light account?

A. I do not. The voucher is a matter of record.

Q. How would you read that?

A. I would not read it.

Q. What does it mean to you in bookkeeping language?

A. It means that a bill has been rendered by the Mutual Gas Light Company in connection with some work, probably, rendered to them by this Underpinning Company, the bill has been passed through the routine, checked and audited, and I have placed it to the 17972
credit of the Mutual Gas Light Company and charged it to the proper operating account in our ledger.

Q. What does this item, May 22nd mean Seaboard By-Products Company, $3,149.78?

A. I think I remember that item. There was some arrangement under which the Seaboard By-Products Company paid us a certain sum of money, the exact amount for the moment has slipped my memory, and that money was in part due some other company. We took all of the check into our account, and then prepared a voucher in the name of the other companies who were entitled to part of it, one of the items being the item you have before you. 17973

Q. You think maybe both the complainant and the Mutual sold them coke, and this was a credit to the Mutual Company for their portion of it?

A. I am not sure as to the details. I do recall getting that check, and it was due in part to some other company, and I prepared a voucher in the name of this company for their share and placed it to the credit of their account.

Q. Is there any connection between your supply of oil and the New York Mutual's oil supply?

A. No, the Mutual makes its own contract for gas oil.

Q. How do you explain this entry under date of June 5, oil, $1,691.85?

A. An item to the credit of their account?

Q. Yes.

A. I do not recall it.

Q. Does your memory report to you any transactions covering oil between the complainant company and the New York Mutual Gas Light Company?

Mr. Ransom: I object to the question. There is nothing to show that it relates to gas oil. There are other kinds of oil that are used.

17975 Mr. O'Brien: I am asking the witness. He can tell us whether it means one kind of oil or another, omega oil, or gas oil, or what it is.

The Master: I will let the witness answer this question. I will sustain objections to all other questions asked the witness to explain entries in that book.

A. I have no recollection of any transaction in relation to the gas oil with the Mutual Gas Light Company.

Q. You do some work for the United Electric Light & Power Company?

A. The Consolidated Gas Company?

17976 Q. You yourself, personally?

A. I do not.

Q. Do you spend any time on their account?

A. No, sir.

Q. How do you explain this entry here, "Exps. Ac., H. M. B., $46," page 420 of the ledger No. 17?

A. It does not convey any impression to my mind.

Q. Is that H. M. B. you?

A. It may be, those are my initials.

Q. Does that refresh your memory?

A. No, sir.

Q. You cannot recall that?

17977

A. I was just trying to think what that item might be. Of course in the first instance it is a bill of some kind rendered by the United Company to the Consolidated Company, passed through our account and placed to the credit of their account. I have no recollection of what it might be.

Q. Now, there are various labor items in this account of the United Electric Light & Power Company in which you credit the United Electric Light & Power Company for labor?

A. Yes.

17978

Q. Do you recall what they are in connection with?

Mr. Ransom: I object to that.

The Master: Objection sustained. I am not going to permit any more questions asking the witness if he can recall what items in these books represent.

Mr. O'Brien: I am going to have him explain these books.

The Master: I am telling you what my ruling is going to be so you will not waste any unnecessary time.

17979

Q. I call your attention to the Northern Union Gas Company's account, and ask you what relations there are existing between the Northern Union Company and the complainant company that are reflected in entries in the general books of account?

Mr. Ransom: I object to the question.

The Master: I will allow that, what the relations are between the two companies.

Mr. Ransom: That has been covered.

The Master: When Mr. O'Brien asks him to explain what the entry is I will sustain the objection.

Mr. Ransom: The books show the relation of debtor and creditor.

17080 Henry M. Brundage, Cross.

A. Well, I find items running all through the credit side of this account for gas. I should believe they were gas bills rendered by the Northern Union Gas Company for some place up in the Bronx, but I don't know that. The reference would have to be to the original voucher.

Q. You don't know whether the company furnishes them gas, do you?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: The testimony we have had in
17081 the case indicates that all of the gas the Northern Union had was furnished by the Central Union, and these items, here show apparently, gas furnished.

The Master: The point of my ruling is this. It is quite apparent that this witness will answer with reference to every question as to every item in these books, "I do not know. All I know is that you will find a voucher for them; the voucher will tell you what it is," and in view of the fact that all of the books, records and vouchers of the company have been subject to inspection by counsel for the defendant and their assistants,
17082 I feel that I ought to limit this examination. There is no use wasting time.

Mr. O'Brien: Well, I will just try to curtail these questions, so that we won't go needlessly into detail, and the witness can tell whether from his supervising knowledge of these books he knows of the transactions in general.

The Master: Well, he has answered that a good many times. Mr. Brundage, with the exception of some particular items that you may have particular knowledge about for some particular reason, will you be able to tell Mr. O'Brien

what any entry in this book refers to without referring to the voucher itself?

The Witness: I would not be able to, your Honor.

Q. I find a voucher or an invoice in this group of vouchers covering the New York Mutual, one for each month, indicating that the complainant is indebted to the Mutual Company for gas furnished. Have you produced all the vouchers that cover the relations between the complainant and the Mutual Company for the year 1918 with respect to gas transferred?

A. I believe we have, Counsellor. 17984

Q. You can recall no transaction in connection with gas transferred that is not covered by these?

A. No.

Q. There is one that is in red print, on the paper of the Mutual Gas Light Company?

A. Yes.

Q. What does that mean?

A. That is the credit memorandum which they have given us.

Q. They credited you with $8,263.26?

A. Yes.

Q. And you know personally of the adjustment that that bill is suppose to cover? 17985

A. This credit memorandum indicates on the face—

The Master: Have you personal knowledge of the adjustment?

The Witness: Can we refer to that?

The Master: No, the question is do you have any personal knowledge of it?

The Witness: No, I have not.

Q. You approve of this Mr. Brundage?

A. I did.

Q. It passed through your hands?

A. It did.

The Master: And you relied on somebody's report to you?

The Witness: It was checked by the secretary's office, whose signature is on the face of the credit memorandum.

Q. Why, Mr. Brundage, were not the entries made the sundry creditors' ledger in the same manner for these several vouchers from month to month in which they are set up in the bills—the bills are the vouchers—the vouchers being presented for material and labor employed in the manufacture of gas for
17087 you, that is the complainant's account, during the month of—the question.

The Master: Objection sustained. The back of the bill refers to gas transferred, the back of the voucher.

Mr. O'Brien: I am in the ramifications of bookkeeping now.

The Master: You are on nothing that is worth while.

Mr. O'Brien: Well, I will take an exception to your Honor's ruling.

Q. Included in these vouchers is a voucher dated November 30, 1918, "For the use of manufacturing
17088 plant capacity during the eleven months to November 30, 1918, at $75,226.35 per annum," carried out in the right column, "$68,957.49." Will you explain that invoice?

A. The invoice itself indicates what it is for. I know that Engineer Woods prepared a report which led to action by the executive committee of the Consolidated Gas Company authorizing the payment to them of the amount stated in the bill for the year 1918.

By the Master:

Q. Was that in addition to the 10 per cent on cost of production?

A. Yes, this is for the use of plant capacity owned by the Mutual Company for us.

Q. Well, I do not quite understand what that bill could be for. That is, I do not think your statement explains it at all.

A. The Mutual Gas Light Company, your Honor is carrying some plant capacity for our benefit.

Q. What do you mean by plant capacity?

A. The report of Engineer Woods indicated that the Consolidated needed additional plant capacity, and the Mutual Gas Light Company is furnishing it.

Q. In what way? 17990

A. And they charged us for the use of that portion of the plant, that amount of money.

Q. What do you mean by carrying plant capacity? I do not quite understand what you mean by that?

A. Your Honor, if a company has a certain requirement of gas and hasn't sufficient plant capacity to produce that gas and some other company adjacent to it is obliged to use a portion of its plant for the benefit of the first company, then and in that event the first company would be required to pay to the second company something for the use of that plant capacity used for the first company's benefit.

Q. But if you are buying gas from them and paying 17991 cost plus 10 per cent under an agreement, doesn't that cover it?

A. No. The buying company is simply paying direct station cost plus 10 per cent, and that makes no allowance for the investment of the owning company whatever.

Q. Well, in other words, the New York Mutual is getting an additional amount over and above station cost plus ten per cent?

A. It is getting a return for the use of that portion of the plant devoted for our benefit.

Q. Is that applicable to the Standard and to the New Amsterdam, too? Is there such an arrangement?

A. No, sir.

Q. Is this a new arrangement with the New York Mutual for 1918?

A. My recollection is that the year 1918 was the first year in which that payment was made, sir.

Q. You do not know what brought it about?

A. I do not.

By Mr. O'Brien:

Q. Will you tell me why it was entered under the
17903 title, "Gas," on this account on page 423 of the sundry creditors' ledger?

A. Because it was an additional cost of getting gas during that year.

Q. Why wasn't it set up using some of the same language even in an abbreviated form, that is used on the voucher?

A. Well, I am unable to answer that question. That is purely a bookkeeping proposition, and the bookkeepers used the term, "Gas," because that is where the amount was to be charged.

Q. There isn't any word gas at all on this voucher, is there?

17904 A. Oh, yes.

Q. Where?

A. In the classification.

Mr. Ransom: It is indicated on the face of the voucher, charged against transfer.

The Master: I think you have got all you can get on that.

Q. What is this? Down here in pencil on this voucher or invoice are the words, "Charge Gas Transferred, J. J. N., 12/14/18." Who is that?

A. That is Mr. Norton.

Q. Mr. Norton?

A. Yes, sir.

Q. What offices does he hold with the complainant company?

A. He is one of the accounting men.

Q. He is under you?

A. He is.

Q. Is he given some authority to say whether a bill shall be charged in one way or another?

A. Why, all the clerks who do the classifying of bills have that authority, subject to the approval of the head of the department and the auditor, who go over and verify the accuracy.

Q. Your signature is not on this? 17996

A. It is not.

Q. You did not approve this?

A. I did not.

Q. Who is this R. A. C. that is signed on here?

A. He is the vice-president of the company, Mr. Carter.

Q. And this stamp, "Ordered paid by C. G. M. Thomas treasurer." Is that stamp used on bills occasionally?

A. Yes, I have seen that stamp used before.

Q. Well, now, what particular part of a plant does this report of Mr. Woods, on which this payment is predicated, indicate was used by the complainant com- 17997
pany?

A. The portion of the manufacturing plant estimated to be reserved for our purposes and used for our business in producing gas for us.

Mr. O'Brien: Well, now, that only just—

The Master (interrupting): I knew that is all you would get.

Q. Is it a holder?

The Master: Objection sustained.

Q. Is it a generating machine, is it a portion of a generating apparatus?

17998 Henry M. Brundage, Cross.

The Master: Objection sustained. The Master understands the statement of the witness to be that his understanding of it was that a charge was made for the percentage of the plant capacity, of all of the plant, which the amount of gas sold to the Consolidated bore to the amount of gas made there in that plant.

The Witness: That is right.

The Master (interrupting): In other words, if the Consolidated bought one-third of the gas, they figured that plant was used to the extent
17999 of one-third by the Consolidated. Objection sustained.

Q. Did you ever see Mr. Woods' report?

A. I have not.

Q. Is this a percentage of the operating expenses of the Mutual Company for the year 1918, or is it an amount based upon a certain percentage of the investment in the Mutual Gas Light Company?

The Master: Objection sustained. I will direct that if counsel have not had access to Woods' report, that report be submitted to them for inspection.

Mr. Ransom: I have here a certified copy of
18000 the executive committee minutes which show fully the basis of the action, if counsel desires that.

The Master: Next question.

Mr. Ransom: I have the 1919 Woods' report in court, but I have not the 1918 Woods' report.

Mr. O'Brien: Your Honor, I call to your attention these matters as we go along that bring out papers that are extraneous to the general books of account on which payments and entries in these general books have been predicated—papers, records and books that were not offered

in evidence—and I will at the close of my examination renew my motion to strike the books of account from the record in this case, for that additional reason, that they are based upon records that are extraneous to the case up to the present moment.

The Master: Let us go along and get finished with Mr. Brundage.

Q. You say, Mr. Brundage, that this was the first time that was done, in the year 1918?

A. That is my recollection.

Q. Is it being done in 1919, do you know? 18002

A. It is.

Q. Has it been charged up as yet?

A. Yes, all payments have been made and charged in the usual way through our accounts.

Q. Have you ever read a minute of the board of directors or the executive committee to which Judge Ransom has just referred?

A. Yes, sir.

Q. Then you are acquainted somewhat with the basis on which this calculation is made?

A. Yes.

Q. Then you could say whether it was an interest on the investment of the New York Mutual Gas Light Company? 18003

The Master: Objection sustained.

Mr. O'Brien: Exception.

The Master: The minute is in court and I am not going to take the witness's guess about it.

Mr. Ransom: And the 1919 report is in court.

Mr. O'Brien: What do you mean by that, Judge Ransom?

Mr. Ransom: The Woods' report for 1919. Here is the minute, if you wish it (handing to Mr. O'Brien).

Q. Mr. Brundage, I hand you the paper that has just been handed to me by Judge Ransom and ask you if that paper refreshes your memory as to the basis on which this bookkeeping transaction was predicated of "68,957.49," recorded on page 423 of the sundry creditors' ledger?

A. This is a copy of the resolution on which that payment is predicated.

The Master: Does that refresh your recollection as to the basis of the charge?

The Witness: The basis of the charge is not
18005 set forth in the resolution. The resolution recites that a certain sum of money was to be paid, your Honor.

Mr. Ransom: But the resolution does indicate the basis of the charge.

Q. Does it refresh your memory at all?

A. Well, I have seen the original resolution in the minutes of the company.

Q. Are you able to state now what the basis of the charge is?

Mr. Ransom: I object to the question. I think the resolution sets forth the basis of the charge.

18006 Mr. O'Brien: You asked me to refresh the witness's memory and I have done it.

Mr. Ransom: I did not ask you to refresh the witness's recollection.

The Master: I said you could.

Q. Will you state now, Mr. Brundage, after having your memory refreshed by this copy—

The Master: Wait a minute. I do not know whether it has refreshed his recollection or not. Do you know anything more about it, Mr. Brundage, than you did before you looked at this resolution?

The Witness: No, I cannot say that I do, your Honor.

Q. All you know is that the charges are made on the basis of that resolution?

A. On that resolution authorizing certain payments.

The Master: If you want to put that resolution in, I will take it; if you do not, I will leave it out. If you want to put that in evidence, Mr. O'Brien, showing the basis upon which this charge was made, I shall receive it without holding you to the accuracy of the facts alleged, and simply receive it so that we might have on the record 18008
the basis on which that charge was made, as indicating that it was a charge in addition to the cost plus 10 per cent.

Mr. O'Brien: Then with those limitations I will offer it in evidence.

The Master: I will receive it as the defendants' exhibit, simply for the purpose of showing the basis upon which the charge is made, the defendants not being at all bound by the accuracy of the facts set forth in the resolution.

Marked Defendants' Exhibit OO.

Mr. O'Brien: Judge Ransom, will you furnish a copy of it to us? 18009

Mr. Ransom: Yes.

Q. Mr. Brundage, can you tell us why some of these vouchers covering the relations between the Mutual Company and the complainant company in connection with gas transferred for the year 1918 have stamped, "Ordered paid by C. G. M. Thomas, Treasurer," and others do not?

A. The company ordinarily pays the current sundry creditors' bills between the 15th and the 20th of the month, but every once in a while an item of this nature comes along, and there is some particular reason that

justifies payment at the time, in which case the treasurer desiring to have it paid at once puts that stamp on it.

Q. Take this voucher No. 17,675, would you say when that was paid? Was it paid in the year 1918?

A. It shows on the upper right-hand corner the date when it was paid, initialed by the officer who signed the check.

Q. It was paid January 7, 1919?

A. Yes, sir.

Q. That would be charged up to the operating
18011 expense of 1918, however?

A. It would.

The Master: That particular stamp on that particular voucher may indicate that the treasurer was anxious to put it through to clean up your books for the year 1918, might it not?

The Witness: I should say not, your Honor. This would indicate to my mind that the Mutual Gas Light Company probably needed the money, from the fact that the bill was paid on January 7th, but was not audited until January 8th, when in order to get through promptly the treasurer put that stamp on it in order to have it paid, and
18012 have it go through the routine later.

Q. The same explanation would be given as to voucher No. 17,676, amounting to $6,268?

A. The same routine.

Q. And this last voucher covers the use of manufacturing plant capacity during the month of December?

A. It does.

Q. Coupled with the eleven months' bill referred to makes the total for the year?

A. It does.

Q. This adjustment was not made, the adjustment

of the whole account by which you wiped out all of the entries for the transferred gas during the year 1918, and substituted new figures, was not made until after the middle of January, was it?

A. Well, the bill itself will show when the matter was handled. I have not the exact date in mind.

Q. Will you tell me why you have marked this approved on the 15th day of January and stamped, "Passed for payment by the executive committee on January 21st"?

A. I can.

Q. And audited on January 16th? 18014

A. The date that appears below my signature is the date at which that bill was presented to them for approval.

Q. These figures $558,248.87, plus 10 per cent, making a total of $614,073.76, credited to the Mutual Gas Light Company, and taking the place of all entries in your books on the subject of transferred gas in the account of the Mutual Gas Light Company for the year 1918, were handed to you by Mr. Carter's office?

A. They were.

Q. The details of the working out of that was not done by you or men under your supervision? 18015

A. It was not.

Mr. Ransom: I think I ought to say this: With that voucher there was, of course, annexed a statement of the sort that I referred to yesterday, of which I have a copy. I find this morning that Mr. O'Brien's representative, Mr. Sangster, has somewhere floating around the city these statements, having taken them from Mr. Frank. The voucher as it stands is not complete without the accompanying statement, and if Mr. O'Brien's representative was present and had in court the

statement which was annexed, it would be very clear as to many of these matters as to which Mr. O'Brien is interrogating the witness.

Mr. OBrien: I haven't any objection to your interpolating now a few questions to the witness, if you want to straighten it up.

Mr. Ransom: There is nothing to straighten up, except that you would not ask these questions, I believe, if you had seen what your representative has taken from the company's office.

Q. You have a voucher here No. 18,307, dated the
18017 same date as the last one I have asked you about, and it is called a credit, and that is approved by you in the amount of $619,842.63. Can you explain the reason for this voucher being rendered, and the adjustment it was designed to bring about in the account of the Mutual Gas Light Company? Take both vouchers in your hand?

A. This credit memorandum for $619,842.63 cancelled all the bills which had been put through our accounts during the year 1918.

The Master: For gas transferred?

The Witness: For gas transferred.

Mr. O'Brien: I ask that that be marked for
18018 identification, being voucher No. 18,307, dated December 31, 1918; marked "Approved H. M. B., Assistant Secretary, 1/15/19; Audited January 16, 1919; passed for payment January 21, 1919; executive committee."

Mr. Ransom: I question the propriety of marking anything for identification when the accompanying papers are in the custody of the counsel for the defendant Swann, or his representatives, and have been removed from the complainant's offices and are not produced when they are needed in court.

The Master: The paper will be marked.

Paper marked Complainant's Exhibit PP for identification.

Mr. O'Brien: I also ask that Voucher No. 18,274, dated December 31, 1918, in the amount of $614,073.76, marked "Approved H. M. B. Assistant Secretary 1/15/19; marked 'Audited January 16, 1919,' passed for payment January 21, 1919, executive committee," be marked for identification.

Paper marked Complainannt's Exhibit QQ for identification. 18020

Q. I have here a voucher No. 15,917; purporting to cover gas transferred, material and labor employed in the manufacture of gas by the Mutual Gas Light Company for the Consolidated Company, in the amount of $60,249.05, passed for payment December 17, executive committee; audited December 11; marked O. K. J. H. A. Armstrong, Comptroller. I will ask you why it was, Mr. Brundage Mr. Armstrong O. K'd. this particular bill?

A. Undoubtedly because Mr. Carter and myself were both unavailable at the time the bill was presented.

Q. That would explain your signature not being on it? 18021

A. Yes, sir.

Q. He made such approvals in your absence?

A. He would.

Q And in Mr. Carter's absence?

A. Yes, sir.

Q. He had authority to make such approvals?

A. Yes, he is an officer of the company.

Q. Is that during the absence of you and Mr. Carter from the city, or when you are away from the office? Under what circumstances did he begin to operate?

A. Only when we were away and not available at the time the signature was required. I am very seldom away from the office, but occasionally I may be out around the building somewhere.

Q. Would he have authority to do that if you happened to be out of the building?

A. He is an officer of the company and authorized to approve bills.

Q. Independently of you?

A. Of course he would not approve them unless they had gone through the regular routine.

18023 Q. Haven't you got some rule that covers these matters regularly?

A. Bills of this nature come to me in the first instance for approval, but if I am away—and in all likelihood when that particular bill came up I was not going to be back that day—it would go to the next officer to sign.

Q. That is a routine that is observed in the company's offices?

A. Absolutely.

Q. If you and Mr. Carter happen to be away and some bill comes in, the Comptroller will O K it, and it may be paid, on the approval of the executive com-

18024 mittee, too?

A. Yes, sir, if it is a bill of regular routine.

Q. Is it O. K'd. by Mr. Armstrong before it goes to the executive committee or afterwards?

A. A bill of that kind would be O K'd before it went to the executive committee.

Q. The executive committee's approval then of these bills is the last approval prior to actual payment?

A. Yes.

The Master: Sometimes they are paid before they are approved?

The Witness: Occasionally they are upon

the authority of the Treasurer, as I have indicated in two cases.

Mr. O'Brien: I would ask that that be marked for identification, Voucher No. 15,917, being dated November 30, 1918; marked "Paid January 21, 1919; audited December 11, 1918; passed for payment December 17, 1918."

(Paper marked Complainant's Exhibit RR, for identification.)

Q. Can you say why this voucher No. 14,502 in the amount of $60,928.09, covering labor and material employed in the manufacture of gas by the Mutual 18026
Company for the account of the Consolidated Company, passed for payment November 19, 1918, executive committee, marked approved H. M. B., Assistant secretary, 11/12/18 is signed by F. H. Nickerson, per T. J. P.?

A. Yes. T. J. P. is one of Mr. Nickerson's men, who undoubtedly performed the check upon that bill that Nickerson would have done had he been available. He is one of Mr. Carter's clerks.

Q. Well, do you remember that this came to you with that approval on it before you approved it?

A. It must bear that indication of a correct check before I would approve the bill. 18027

Q. Well, Mr. Nickerson holds some authority then under Mr. Carter?

A. Oh, he is one of Mr. Carter's clerks.

Q. Well, he in turn has some one under him?

A. There are four or five men there associated with him.

Q. Who acts in his absence. What is his particular title, clerk?

A. Who?

Q. Mr. Nickerson?

A. Well, I call him a statistical clerk.

Q. Oh, he is not vested with any authority?

A. No, he is not an officer of the company. I should call him a statistical clerk, and he has four or five men that work with him.

Q. In the absence of Mr. Carter, you take his O K for your approval of an invoice?

A. The fact that Mr. Nickerson had signified a bill had gone through the proper routine and was verified as mathematically correct, and signed it with his initials and sent it to my desk, I would approve it.

Q. That would be sufficient?

18029 A. Yes.

Q. And you do that under the authority of Mr. Carter?

A. I do.

Mr. O'Brien: I ask that that be marked for identification, voucher No. 14,502, just referred to in my question.

Voucher marked Defendants' Exhibit SS for identification.

Q. That F. H. N. on many of the bills refers to Mr. Nickerson?

A. You will find it on all of them.

Q. When does the president put his signature on

18030 these vouchers?

A. He does not put it on.

Q. His initials?

A. He does not put them on.

Q. Is this his initials on this voucher No. 11,811?

A. It is.

Q. Can you explain why that was on that one and not on the other?

A. I can. I have already testified that in the upper right-hand corner of each bill there is a stamp bearing the date on which the payment was made, and the two officers of the company who signed the check concurrently initial.

The Master: It so happened that Mr. Cortelyou signed this check?

The Witness: Signed that particular check?

The Master: Because some other officer was not available?

The Witness: Yes, sir.

Q. Then he took the place of P. W.?

A. No, he took the place of a vice-president. We do not ask the president to sign checks, if we can avoid it. One of the vice-presidents and one of the treasurers sign checks.

Mr. O'Brien: I ask that that be marked for identification, being voucher No. 11,811, dated August 31, 1918, in the amount of $45,443.64, being passed for payment September 17, 1918, marked paid September 28, 1918. 18032

Paper marked Defendants' Exhibit TT, for identification.

Mr. O'Brien: I will ask your Honor to have these papers all marked as one exhibit for identification at some later time.

Q. Before I start to ask you about these vouchers covering gas transferred to the New Amsterdam Company, Mr. Brundage, I will ask you about this account in sundry creditors ledger, on page 398 of the New Amsterdam Gas Company, the various entries there of certain amounts under the title "Commission." You cannot give us any further information on that? 18033

The Master: Objection sustained. I have already stated that I would not permit any more questions on this.

Q. Would your answers be the same as when I questioned you about the New York Mutual account?

A. They would.

Q. Can you state why you credited the New Amsterdam Company with $16,035.87 for real estate on May 4, 1918?

The Master: Objection sustained. At this time I am going to get rid of this last request of Mr. O'Brien to mark some paper for identification. Voucher Nos. 1,385, 1,905, 4,300, 5,727, 7,390, 8,794, 10,272, 13,182, credit memorandum dated September 30, 1918, being Voucher No. 13,541, voucher No. 16,566, voucher No. 17,676 and voucher No. 17,675, will be marked one exhibit for identification.

Marked Defendants' Exhibit UU for identification.

18035 Q. Now, repeating the question in regard to this item of $16,035.87 credited to the New Amsterdam Gas Company, under the title "Real Estate" in May, May 30, May 4, 1918. Can you state your own knowledge of what that transaction covered?

Mr. Ransom: Objection.

The Master: Objection sustained.

Q. Do you know anything about it?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Do you know any reason why the New Amsterdam Company should be credited with that amount of money?

18036 Mr. Ransom: Objected to, it has already been covered by a previous witness.

The Master: Objection sustained. I do not think it has been covered by a previous witness. I am sustaining it on the ground I want Mr. O'Brien to have the vouchers looked at, and if there is any question he wants to ask, he can ask it.

Mr. O'Brien: I don't know whether this is a voucher. It is an entry under the column "Voucher," the number is 6,139.

The Master: Would that indicate a voucher?

The Witness: It is a voucher.

Mr. O'Brien: Your Honor, the vouchers may not show.

The Master: Well, then, you get the vouchers.

Mr. O'Brien: Well, that assumes we are going to spend money.

The Master: I don't care what it assumes.

Mr. O'Brien: There is no reason why we should spend money and go to the trouble. Here these books are in evidence and if they are enigmatical and do not give us the data, there is all the more reason why they should produce 18038 the vouchers.

The Master: All of the vouchers are in court, they are all in court. If you want any vouchers, they will be sent for.

Mr. O'Brien: Then I ask that counsel be requested to produce the vouchers on these items that I am questioning the witness about.

The Master: You may put on the record what you want, and if your examination is not finished by that time, they will be produced. You should have asked that they be produced before this. I am not going to adjourn the examination to get them down for you. You should have asked 18039 for them for the purpose of your cross-examination just as these other vouchers were asked for by Col. Hayward.

Mr. O'Brien: They can bring them before I am through.

Q. Now, can you explain why you made an entry in the sundry creditors ledger under this New Amsterdam account of a credit of $80,036.48 on January 12, 1918, for gas furnished in December, 1917?

Mr. Ransom: I object to the question as covered by a voucher.

The Master: No, I am going to allow it.

Mr. O'Brien: If I had the voucher I would ask the same question.

The Master: It is your fault, you should have asked to have the vouchers here.

The Witness: The fact that it is posted is no indication, your Honor, that it has been charged in the 1918 business. In fact, to produce the vouchers that were requested, we went through our gas transferred account and got every voucher that was posted there.

18041 The Master: 1918?

The Witness: Yes, sir.

The Master: And that is not in it?

The Witness: That is not in it. This particular transaction does not at the moment appeal to me as to why it is so marked. The voucher is not in the 1918 gas transferred account

The Master: We have the gas transferred account here in the operating ledger?

The Witness: We have.

The Master: Well, then, check it up and let us find out now. Get your operating ledger for 1918, gas transferred, and see if that item, is

18042 charged in 1918 operations, and if you do not find it under 1918 get 1917 operating ledger and see if it is entered in there.

The Witness: It is not entered in 1918.

The Master: Have you found it in 1917? Bring your ledger book over here.

The Witness: I find it in 1917.

The Master: Did you at my request look at your operating ledger for 1918 and see whether the item of January 12, "to cash, $80,036.48," was charged in the operating account for 1918?

The Witness: I did so look.

The Master: Did you find it?

The Witness: I did not.

The Master: Did you at my request look at the gas transferred account for 1917?

The Witness: I did.

The Master: Did you find it there?

The Witness: I did.

The Master: Where is it?

The Witness: Entered in the month of December.

The Master: Under the date of December 31? 18044

The Witness: 31.

The Master: Sundry debtors voucher for general entry No. 1176, $80,036.48?

The Witness: Yes, sir.

The Master: Is that the same item which is referred to on page 398 of the sundry creditors' ledger 17 under date of January 12, 1918?

The Witness: Yes.

Q. Why didn't you enter it in your sundry creditors book under the same year and same month?

Mr. Ransom: I object to the question.

The Master: I shall permit that one question as to how it happened to get into sundry creditors ledger in 1918. 18045

The Witness: The entry in the month of December, 1917, was in the shape of a credit memorandum through our debtors, which made them a creditor in sundry debtors. Then we put an item through the sundry creditors so as to transfer it through the sundry creditors' ledger, so that it might be paid—just the bookkeeping machinery.

Q. You have an entry here of $186,836 not entitled "Gas" but with the title "By Labor, etc."

A. Yes.

Q. December 31, 1918?

A. Yes.

Q. What does that mean?

A. I should believe that that refers to a bill for gas transferred. (After examining book.) Yes.

Q. Can you explain the meaning of the entry made under June 14th of $19,042.07 entitled "Gas Adjustment"?

A. I cannot. The voucher should be there.

Q. Would the vouchers refresh your memory (handing to witness)?

18047 A. (Examining book.) The vouchers here do not include that item.

Q. Right under it there is a similar item that is marked ditto in a small amount of $7.

A. The voucher is not here for that either.

Q. Can you account for its not being here, Mr. Brundage?

A. The entry in Sundry Creditors' ledger to which you refer of $19,042.07 was not charged to the Gas Transferred account.

Q. What was its final resting place in the general books of account?

A. I am unable to say without having the vouchers

18048 before me. It was not transferred to the Gas Transferred account and therefore the voucher was not produced.

Q. It has to be in some book.

The Master: Objection sustained. He says that if he had the voucher he would locate the account to which it was charged. He cannot without the voucher. You could locate it, could you not, in some other book and trace it through that way?

The Witness: If I had the voucher showing the classification.

The Master: Can you not get the classification in any other way?

The Witness: No, there is just the blank record of it here.

Q. Can you not go to the Sundry Debtors blotter and find it as of that date?

A. No, sir.

The Master: Not if it is a Sundry Creditors account.

Mr. O'Brien: It is an adjustment figure, your Honor, that is the reason I asked him. It is called "Gas Adjustment." 18050

The Master: But in favor of a creditor.

The Witness: In favor of a creditor not transferred to Gas Transferred account. So without the voucher itself, which is the record from which this ledger is posted, I do not know what it is charged to and I do not know what it represents.

Q. You do not know what it represents?

A. No.

Q. Would you assume that it represents the amount of gas transferred up to that date?

A. No, I would not care to assume that. I would rather see the original voucher. 18051

Q. Would the Treasurer's book enlighten you on that subject?

A. Not in the slightest degree. The Treasurer's book simply shows the date, name, and amounts of money paid.

Q. Would not the book of the approvals of the executive committee show that to you?

A. It would simply show the date of the bill, the name of the creditor, what it was charged to, the folio at which it was posted, and the amount.

The Master: Would it not show what it would be charged to?

The Witness: Yes, the classification.

The Master: Suppose you get that.

The Witness (examining book): It is charged to general profit and loss, $19,042.07.

Q. This page 357 of the Invoices Approved for 1918, No. 28, refreshes your memory so that you would be able to tell us why New Amsterdam's account was credited with that amount for profit and loss?

A. It will not. We simply know from the record that is now before us that an invoice was rendered by the New Amsterdam Gas Company for that
18053 amount, which was credited to their account, and charged to our profit and loss.

The Master: That did not show up in the operating revenue at all?

The Witness: No, sir; not in any way, charged to profit and loss.

The Master: It did not affect the operating revenue or operating results for the year at all, one way or the other?

The Witness: No, sir, charged to our general profit and loss account.

Q. How do you know that?

The Master: Because the book shows it. Ob-
18054 jection sustained.

Q. I call your attention to this notation here with a question mark in red ink and the pencil inscription "Voucher missing" and ask you if that refers to this item of $19,042.07?

A. I should believe that it did.

Q. If the voucher be missing where are we going to find the explanation of this?

A. There is no indication that it is missing at this time, Counselor. There have been forty examiners at these vouchers in the past month and possibly they have found that voucher in some other party's hands.

Mr. O'Brien: Probably Mr. Teele could tell us about that.

The Master: Mr. Brundage is under cross-examination, not Mr. Teele. We have discovered a very significant and serious situation—there is a voucher missing.

Mr. O'Brien: It is only $19,000 that is not explained.

The Master: The $19,000 will be explained somewhere, I suppose. If we cannot find the voucher here we will get it from the New Amsterdam records. 18056

Mr. Ransom: It may not be missing now.

The Witness: I do not believe it is, your Honor.

Mr. Ransom: It may not have been missing when some one marked that on in lead pencil.

The Master: Is that the mark of one of your men, Mr. Brundage?

The Witness: No, sir; it is no handwriting that I recognize.

The Master: What?

The Witness: I do not recognize the handwriting.

Mr. Ransom: Mr. O'Brien did not mean to state that the words "voucher missing" were in ink did he? 18057

Mr. O'Brien: No, I said pencil inscription. In fact I thought it might refer to the whole amount and not to that particular $19,000.

Q. Are you able to state why that is credited to the New Amsterdam Company and then charged off in profit and loss on complainant's books?

Mr. Ransom: Objected to.

The Master: Objection sustained.

18058 Henry M. Brundage, Cross.

Mr. O'Brien: I am asking the witness for his personal knowledge of these things, your Honor.

The Master: Yes. Objection sustained.

Q. Does any book in court refresh your memory so that you would be able to say just what the transaction was that is reflected here in these two entries?

Mr. Ransom: Objected to.

A. No, sir.

Q. The practice that you observed in respect of the Mutual Gas Light Company in the matter of invoices covering gas transferred was the same in connection
18059 with the invoices of the New Amsterdam Company?

A. Yes, sir.

Q. Why is it that in the case of the New Amsterdam Company you set forth the cubic feet of gas as well as the amounts, whereas, in the case of the Mutual Gas Company you did not include them on the invoices?

Mr. Ransom: I object to the question.

The Master: Who sets them forth? I understood these invoices were prepared by the various companies, and apparently the Mutual sent in a bill for a bulk amount and the others itemized it. That is all there is to that.

18060 Mr. O'Brien: The ink is a little different, your Honor.

The Master: It comes from a different place.

Mr. O'Brien: It is in green ink.

The Master: What company are you referring to?

Mr. O'Brien: The New Amsterdam Company.

Mr. Ransom: They are made up in a different way?

The Master: Objection sustained. When you found the Mutual bills did not specify the amount of cubic feet you thought it was very sus-

picious; now you find the New Amsterdam does specify the amount of cubic feet and you think that is wrong.

Mr. O'Brien: I want to find out the reasons for the difference in the practice.

The Master: Because one company did one way and the other company another.

Mr. Ransom: The companies make them up in different ways.

Q. I have here Voucher 18,033, dated December 31st, 1918 for material, labor, etc., employed in manufacturing gas for your company during December, 18062
1918, 97,157,000 cubic feet at .4444, $43,176.57 10 per cent $4,317.66, total $47,494.23. I ask you whether this is charged up on the books for the year 1918?

A. It was.

Q. Or to the year 1919?

A. The bill dated December 31, 1918?

Q. Yes.

A. Charged in our 1918 accounts.

Q. Even though it was paid on April 18, 1919?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. How do you account for its being marked 18063
"Paid" on April 18, 1919?

Mr. Ransom: Objected to.

The Master: I will take an explanation for its failure to be paid until way along in the following April.

A. I am unable to testify why that delay ensued. It is a treasurer's matter.

Mr. O'Brien: I might say, your Honor, so that you will understand it, that some of these questions go even beyond the operating expenses.

For instance, in this matter the question of how quickly they pay their bills—

The Master: The question of working capital?

Mr. O'Brien: Yes—comes in. Then the methods of bookkeeping involved.

The Master: I am not worried about that.

Mr. Ransom: Some of them were paid too soon, others not soon enough.

Q. Can you make any explanation for the fact that this voucher No. 16,799, dated December 13th,
18065 1918, passed for payment December 24th, 1918, by the executive committee, is marked paid April 18th, 1919?

A. I cannot.

Q. Do you know whether it is charged to the 1918 operating expense?

A. It was.

Mr. Ransom: That is obviously a credit voucher. The two were handled on the same day.

Q. You mean it was a credit voucher?

A. Yes. It went through on the 1918 accounts.

Q. Will you look at the sundry creditors' ledger and find where it is credited, the last one, to the com-
18066 plainant company, and the former one credited to the New Amsterdam Company?

A. Credit memorandum No. 11488-19, is posted on folio 398 of sundry creditors' ledger; and the credit of $47,494.23 is posted to the credit of the New Amsterdam Gas Company on the same folio.

Q. So these accounts then of the various affiliated companies are never closed?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Mr. Brundage, this account was not balanced,

was it, until after the entry of these two items you have just spoken of?

A. These bills are ordinarily paid every month—

Q. Won't you answer my question?

A. I will try to.

Q. They were marked paid April 18, 1919.

A. They are so marked.

Q. They are charged in the books under December 13th, the date on the bills?

A. Yes.

Q. Now, presumably they were entered in this account on April 18th, 1919, were they? 18068

A. They were not. They were entered in that book in connection with the closing of the December, 1918, accounts. Then they were sent to the treasurer's department and were not paid by him until some time in April, 1919.

Q. Is it the practice of the accounting department to enter these bills in these general books of account as of the date on which they are rendered?

A. That is our practice, to enter them as soon as they have gone through the necessary routine and have been audited.

Q. When would you say that this account, if you can say it, those particular two items were entered 18069 in that book?

The Master: Which book?

Q. Sundry creditors ledger?

The Master: They were entered on April 18th.

Mr. O'Brien: No, he says not.

The Witness: No, sir. This bill representing this item $47,494.23, by voucher No. 18,023, was posted in the sundry creditors ledger and charged to the proper account on or about January 15, 1919.

Q. Why do you say it was on or about that date?

A. Because I find it passed through the auditors office January 14th, 1919, and shortly thereafter it would be posted.

Q. So that the practice is, and this will be typical I assume of the other bills of the same kind, to post it in the general books of account after it passes through the auditor's hands, irrespective of the date when it is paid?

A. Absolutely.

Q. When we look into a given account in the sundry
18071 creditors ledger, and under the date column find a date, we will always be sure that the date set forth is the date of the particular bill or invoice covering the item in question?

A. Invariably.

Q. And we are not to assume from that anything with respect to the date on which that particular item was paid?

A. No, sir.

18, 1919, amount $47,494.23 for 97,157,000 cubic feet of gas at 44.44; and voucher No. 16,799, dated December 13th, 1918, for $11,488.19, covering adjustment of charges ren-
18072 dered for gas manufactured during June to November, 1918, inclusive; on account of original charges having included therein items now charged to the United States government, detailed statement attached, be marked for identification.

The Master: Counsel having spread the contents of the papers on the record they will not be marked for identification.

Q. Can you state why this voucher No. 16,199 for

$48,580.32 purporting to cover 101,015,400 cubic feet of gas at 43.72, total amount $44,163.93, plus 10 per cent, total $48,580.32, was not marked approved by you?

Mr. Ransom: I object to this line of question I submit that it is simply a waste of time, taking up seriatim all these vouchers that have been superseded. None of these enter into the accounts of operation.

The Master: I will, Mr. Brundage, say how it is that he did not approve this one.

The Witness: Because I was undoubtedly absent 18074 from the office that day.

The Master: Is it approved by somebody else?

The Witness: In my absence Mr. Armstrong approved it.

Q. Can you offer any explanation for this being marked paid January 21st?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Your Honor, these are all important matters.

The Master: Objection sustained.

Mr. O'Brien: Here is a whole lot of business transacted presumably I say from my point 18075 of view, presumably after the close of the year, inscribed in these books of account, we might say, after the close of the year. Now, can't your Honor see that it presents a situation calling upon the complainant to bring further witnesses in here and justify this as operating expense for the year 1918?

The Master: My ruling will stand.

Mr. O'Brien: I will try to save as much time as I can in giving a blanket question to cover many matters of a similar character, but I insist

18076 Henry M. Brundage, Cross.

that this is important and that this question ought to be allowed.

The Master: No, the ruling stands.

Q. Would your explanation be the same as it was with regard to the payment of the voucher just mentioned that was passed for payment on April 18, 1919?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Have you any explanation to offer, Mr. Brundage, of the varying prices charged by the New Amsterdam Company for gas in the several months cov-
18077 ered by these vouchers?

The Master: Objection sustained. It is apparent on the face of things that the cost goes up and down from month to month, there is a variation in price from month to month.

Mr. O'Brien: Exception. They have insisted it is crescendo, but it is descendo in some instances.

Recess until 2 p. m.

18078 Afternoon session.

By Mr. O'Brien:

Q. I call your attention, Mr. Brundage, to voucher No. 8830, and ask you what this reference is on this voucher, "Cost based on agency agreement"?

The Master: Objection sustained. The testimony discloses what the agency agreement is, and the basis on which these people worked. That simply is a statement that it is in accordance with that agreement.

Mr. O'Brien: I have not heard it called an agency agreement before.

The Master: I have. My recollection is that it was so endorsed on the cover, on the back.

Mr. O'Brien: What was endorsed on the cover?

The Master: The agency agreement.

Mr. O'Brien: I have never seen such an agreement.

The Master: Oh, yes there was such an agreement produced down here.

Mr. O'Brien: No, indeed.

Mr. Ransom: I do not think the agreement has been placed in evidence. There have been 18080
various references to it.

The Master: Oh, it was the insurance paper I [illegible]en. That is right. I will sustain the objection anyhow. It speaks for itself.

Mr. O'Brien: Exception.

The Master: It is in accordance with an agreement between the parties.

Q. Does this refer to the arrangement you have referred to in your direct testimony, covering the computation of debits and credits for transferred gas, and the distribution of unaccounted for gas?

The Master: I do not think there was any reference to distribution of unaccounted for gas. 18081
Does this refer to the agreement between the New Amsterdam and the Consolidated with reference to the basis of the charge for gas transferred from the New Amsterdam to the Consolidated?

The Witness: It does.

The Master: That is what is referred to as an agency agreement.

The Witness: It was.

Q. Is there such a thing as a formal agreement covering that matter?

A. There was.

18082 Henry M. Brundage, Cross.

Q. In writing?

A. In writing.

Q. Do you recall the date of it

A. Approximately 1902, I should say from memory, sir.

Q. Do you know why there was a credit set up in this voucher of June 30, 1918 in favor of the Consolidated Gas Company in the amount of 36,483,900 cubic feet of gas at 4.4271?

A. It is not in favor of the Consolidated Gas Company, but in favor of some other company, Counsellor.

18083 This is a credit memorandum passed through our account in favor of the New Amsterdam Gas Company.

Q. Well, on all of these other vouchers that we have gone into for this year in connection with the New Amsterdam Company, credits to them and debits to them, for gas furnish the Consolidated?

A. Yes, sir.

Q. In what respect does this differ from the other vouchers of this account?

A. It is just the reverse; this is a credit memorandum.

Q. You mean that you are crediting the Consolidated Gas Company?

18084 A. I do not.

The Master: Debiting the Consolidated Gas Company on that and crediting the New Amsterdam, and on the others you debit the Consolidated and credit the New Amsterdam.

Mr. Ransom: I do not suppose that Mr. O'Brien is in any way doing this deliberately, but I call your attention to the fact that practically all of the questions with which he has occupied this morning, it is inconceivable that he would have asked had there been attached to these vouchers the statements which were there at the time they

were turned over to the defendants, and which are now in the custody of Mr. O'Brien or his representative, and which he does not let us have back even when we call for them.

The Master: Next question.

Q. Does that mean that gas was furnished by the complainant to the New Amsterdam Company during that month to that amount?

A. It does.

Q. You did not make up a bill rendered to the New Amsterdam, did you, for that amount?

Mr. Ransom: Objection. 18086

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Was that bill, or the computation of that amount, made in Mr. Carter's office like the other transferred gas accounts?

Mr. Ransom: Objection; fully covered.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Can you say why this credit dated June 30, 1918 was marked paid only on September 13, 1918?

Mr. Ransom: Objection.

The Master: Objection sustained.

Mr. O'Brien: Your Honor, wouldn't that call for an explanation from the bookkeeping department? 18087

The Master: We have had enough of it. Apparently that was a rather frequent occurrence and we have had all the explanations I want of it.

Q. Mr. Brundage, on voucher No. 18,295, which is dated December 31, 1918, marked Audited January 16, 1919, and approved by you apparently January 15, 1919, can you give us an explanation of why it was marked paid April 18, 1919.

18088 Henry M. Brundage, Cross.

Mr. Ransom: Objection.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Did you have anything to do with the computation of the 552,334,900 cubic feet at .4190, making a total, with 10 per cent, of $254,541.52?

Mr. Ransom: Objection.

The Master: Objection sustained.

Mr. O'Brien: Exception. I ask that that be marked for identification.

Paper marked Defendants' Exhibit VV for
18089 identification.

Q. I hand you vouchers Nos. 8,835 and 10,312, and ask you in whose handwriting are the memoranda attached thereto?

The Master: Objection sustained.

Mr. O'Brien: Exception. I will ask that this be marked for identification, your Honor, the first being Voucher No. 8835, in favor of the Astoria Light, Heat & Power Company.

The Master: That is all you need, is the voucher number.

Mr. O'Brien: I will put the memorandum in.

The Master: With the memoranda attached.

18090 Mr. O'Brien: Memoranda attached, on which is the following inscription: "June 30, $403,622.03" and underneath that "Cr. July 11th on account $250,000," then a line, and under that, $153,622.03.

Mr. Ransom: I do not see any reason for putting that in. It appears right on the face of the voucher itself. Those are simply payments on account.

Mr. O'Brien: Simply they are small pieces of paper attached by pin.

Mr. Ransom: The same matter appears on the the voucher itself.

The voucher was marked Defendants' Exhibit WW, for identification.

Mr. O'Brien: The other memorandum I want marked for identification is on voucher—

The Master: No, you are marking the voucher number with the memorandum attached.

Mr. O'Brien: All right your Honor (continuing), 10,312, in favor of the Astoria Light, Heat & Power Company containing the memorandum, "July 31 $397,854," and underneath that "Cr. on Ac. August 3d $200,000, 7th $150,000" carried out to the right-hand column 18092
"$350,000, balance $47,854.11."

Mr. Ransom: And the voucher itself showing that the balance was paid August 15th.

The Master: The voucher will speak for itself.

Voucher marked Defendants' Exhibit XX, for identification.

The Master: The stenographer will please note that these two vouchers just marked for identification are Astoria Light, Heat & Power vouchers. I supposed we had exhausted those vouchers yesterday.

Q. On this credit voucher in favor of the Astoria 18093
Light, Heat & Power Company, which bears no number, but is marked paid January 2, 1919—

The Master: Let me see if it doesn't bear a number. Let me see it.

Mr. O'Brien: Yes, sir (handing paper).

The Master: Voucher No. 16,240.

Q. Will you tell me, Mr. Brundage, what the total amount is carried out into the right-hand column that is covered by the stamp, the "Passed for payment" stamp?

A. This is a credit memorandum, the credit of which is $52,694.70.

Q. I want the amount that is stamped, that is covered by the "Passed for payment" stamp?

A. $19,341.77.

Q. I ask you if you can explain the credit voucher in favor of the complainant as against the Astoria Light, Heat & Power Company reading as follows: "Credit memorandum for your share of the adjustment of the cost of coal carbonized during the calendar year 1918, sales 9,645,584,400 cubic feet at .004577, total $44,147.84," being dated January 18, 1919, marked approved January 18, 1919, and marked
18095 paid January 24, 1919

The Master: Can you explain it?

A. I cannot. This voucher was passed and checked by the secretary's office and reached me properly initialed, and I approved it.

Q. Will you look at the operating ledger, or the sundry creditors blotter, and see whether that is included in the accounts for 1918?

The Master: Objection sustained. My understanding of cross-examination is that counsel has some particular matter in mind on which he wants to attack the accuracy of the statements made on direct. It is not intended to be a fish-
18096 ing excursion, and I am not going to permit it. You go ahead with the next question.

Mr. O'Brien: I want to say on this side, your Honor, that there is a matter of $44,000—

The Master (interrupting): I don't care if it is forty-four million dollars. You ought to know what point you are driving at.

Mr. O'Brien: I am driving at the witness's lack of knowledge of the books of account of this company.

The Master: All right. Now, you have proved that as far as I am going to let you, if that is the point of your examination.

18097

Mr. O'Brien: That is one point.

The Master: Now, on that point, I won't permit any further cross-examination.

Mr. O'Brien: I want to know if this man has O K'd something that meant the charging of credits and debits to this company. Now, if he O K'd and he O K'd it simply on the figure of somebody else, and he is not able to explain it in any way, then his testimony in the direct must be discarded and it is discredited.

The Master: You have developed that, now go on.

18098

Mr. O'Brien: He was put on the stand as knowing all about the books of account, and laying the foundation, as counsel repeated, for the expert accountant to follow, and who built up a lot of figures on top of this foundation. Well, now, if he cannot tell what they are, then Mr. Teele's whole exhibit has to go out, your Honor.

The Master: All right. That is another point. Just now I am not going to spend time looking at records, and I will ask you to ask another question.

Mr. O'Brien: Of course, because it may be set forth in hieroglyphics in the book in some abbreviated notation under some account in the book doesn't help out. That isn't any reason why I should be shut out from asking this witness for the best explanation he can give of it.

18099

The Master: I will stand by my ruling.

Mr. O'Brien: Your Honor has frequently heard him say, even today or yesterday, "Well, the voucher will show it"— when asked to explain these mysterious figures and notations in the books—"Go to the voucher." Now we are at the vouchers on this particular item and we are still

in the dark, and I have a right to ask the witness—

The Master: Have you not developed that? Have you not shown it?

Mr. O'Brien: If I am just going to satisfy myself with one answer on one voucher, that will not satisfy the record.

The Master: Of course it will.

Mr. O'Brien: I will run through these other vouchers, taking an exception to your Honor's ruling.

18101 Q. I will ask you, Mr. Brundage, as briefly as I can, if you can shed any light on the voucher No. 18,309, a credit voucher for $40,857.73, inscribed, "Your portion of a credit made to our repairs of benches applicable to the year 1918, representing the cost of repairing benches used by the United States Government under a rental agreement"?

The Master: Anything else?

Mr. O'Brien: I suppose the witness is giving us the same answer.

The Master: No, I am going to let you ask a question covering these things, and I am going to let the witness say if he can explain it to save

18102 time.

Q. Have you made any particular investigation yourself?

The Master: I thought you were going to ask a question whether he could explain these vouchers?

Mr. O'Brien: Yes, I have passed from that.

The Master: Can you explain that voucher (handing witness)?

The Witness: I cannot. That is handled in the same manner, sir, checked by the secretary's office and sent to me for approval.

Q. Is there any significance, Mr. Brundage, in the difference in which the bills are inscribed here by the Astoria Light, Heat & Power Company, where, for illustration, they say, briefly on one bill, Voucher 18,293, "1,007,817,400 cubic feet of gas at .6663, $671,508.73," and on another bill, a Voucher No. 12,108, dated August 31, 1918, "For gas delivered during the month of August, 1918, 570,972,400 cubic feet at .7911, total, $451,696.27"?

A. There is nothing significant between those two wordings. They both mean the same thing.

Q. Could you explain why, apparently, they are 18104
done on different typewriters?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Would you give the same answer concerning Voucher 12,463, dated August 31, 1918, a credit voucher, that you did to the two other credit vouchers?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Mr. Ransom: The voucher speaks for itself. It shows very plainly.

The Master: If there is anything in your point that you have shown the unreliability of the witness's testimony, in certain respects, you have 18105
developed it now. I will not permit any more.

Mr. O'Brien: At the close of the session I will ask that they all be marked for identification.

The Master: We will mark them now. Give them to me. If they are not marked already we will mark them now. I thought I had marked them once.

Mr. O'Brien: Not the Astoria. Two of them here are marked.

The Master: The stenographer will please note that vouchers 1,411, 2,938, 4,307, 5,929, 7,513,

13,632, 14,594, 16,236, 16,240, 12,108, 18,293, 12,463, 18,308 and 18,309, are marked as one exhibit for identification.

Marked Defendants' Exhibit YY.

Q. Do the dates in the operating ledger cover gas transferred indicate all the dates of the payments?

A. They will not in the operating ledger. It gives the date of the bill only.

Q. Is there any one of the general books of account that will give the actual date of payment?

A. Yes, sir, the sundry creditors' ledger will show
18107 the dates when the money was paid to the various gas companies.

Q. Does it indicate the particular bill on which the payment is made, or are these payments therein shown to be taken as the payments on account, as the account stood at that date?

A. The payments posted in the sundry debtors' ledger might include one or forty bills, one cash payment.

The Master: Or it might be half a bill?

The Witness: That has occurred, where there is a payment on account, your Honor.

Q. Could you say anything in general terms as to
18108 the dates of payment made to the affiliated companies for gas transferred?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Was there any regular date on which payments were made on bills, or is that something that would depend upon the conditions of each month?

The Master: Objection sustained.

Mr. O'Brien: I am asking the witness about practices, your Honor, and he has testified on the direct to practices concerning the payment of bills.

The Master: I have got the point.

Mr. O'Brien: Exception.

Q. Do you know why the Mutual Gas Company set up their bills differently from the others in regard to the gas transferred, using the terms "Labor and Material used in the Manufacture of Gas"?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Is there any significance in the difference in the inscription made upon their bills and the inscriptions made upon the bills of the Consolidated Gas 18110
Company to other companies for gas furnished and the bills of the Astoria Light, Heat & Power Company to the complainant company for gas furnished by the former to the latter?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

The Master: What bills have you got in your hand there?

Mr. O'Brien: The Standard Gas Light bills.

By the Master:

Q. The Standard Gas Light Company bills, Mr. Brundage, all came through the secretary's office? 18111

A. They did.

Q. All checked up the same way that you did as to the New Amsterdam?

A. Yes, sir.

Q. You do not know any more about it than you do about the others?

A. I do not.

Q. They were all checked against the accounts of the other companies by the clerk in Mr. Carter's office?

A. They were.

Q. That is the way they come up to your department.

18112 Henry M. Brundage, Cross.

A. Yes, sir.

Q. They all go through the same routine?

A. The same routine, sir.

By Mr. O'Brien:

Q. How do you explain the fact that the Standard Company presented these bills not on forms printed by you but on their own forms?

A. It may be when they rendered those bills they did not have any of our regular forms.

Q. You will note that it runs through a good portion of the year.

1813 A. That may be. I have already testified we endeavor to get all our bills on a standard form, but we do not succeed in doing it in every case.

Q. I hand you these vouchers of the Standard Company which have been handed to me, for the year 1918, and ask you, Mr. Brundage, if you can give us any explanation of the credit vouchers that are included there?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Would your answer be just the same as it was with regard to the credit vouchers of the Astoria

18114 Light, Heat & Power Company?

Mr. Ransom: Objected to.

The Master: Objection sustained. In the light of the questions that I put to the witness while you were looking at those, I see no necessity for these questions.

Q. Can you state, Mr. Brundage, why the credit vouchers do not contain the number of cubic feet of gas transferred, whereas the other vouchers do?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Can you state from these vouchers at what price the gas was billed to the Standard Gas Company by the complainant in these several credit vouchers?

The Master: The same ruling.

Mr. O'Brien: Your Honor will recall that when we spoke about the general books of account it was said, "Well, we do not set that up here, you will find it in the vouchers." Now, here are the vouchers and it is not contained there. The information is just put in in dollars and the witness being a chief accountant of the company ought to explain these variations in the prac- 18116
tice of the company.

The Master: I understand the record. Objection sustained.

Mr. Ransom: But it is so unfair for counsel to do that when he has got the data which belongs with the bills, and then he spreads on this record these insinuations.

Mr. O'Brien: I have not had the data, Judge Ransom, and I never saw it.

Mr. Ransom: Mr. Sangster had it. If you paid any attention to your accountant you would not ask these questions.

Q. These credit vouchers mean that the Standard 18117
received the gas as represented in figures from the complainant company.

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Or were these just readjustment figures used on credit vouchers?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception. I wish your Honor would revise your ruling on that.

The Master: No, I will not. I have made up my mind that I will not have any further questions on this.

Mr. O'Brien: We don't want to have the record wrong. It grows out of your fatigue from the morning's work.

The Master: I am not fatigued; I am as fresh as when I started.

Q. I call your attention to a credit voucher, one of these already referred to, No. 5,762, dated April 30, 1918, Consolidated Gas Company to the Stand-
18119 ard Gas Light Company, debtor, and underneath that "Credit" marked in red ink, "Credit" stamped four times and ask you why there is a notation on here, "Paid by check, paid May 22, 1918 by check No. 93,278". Does that mean a check of the Standard Gas Light Company?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Your Honor, this is a matter that we have not found yet.

Mr. Ransom: It is on all the vouchers.

Mr. O'Brien: Well, he can explain them all at one time, and let us have it in the record.

18120 The Master: Objection sustained. I am not going to permit another question which has not some direct relation to some error, or some misstatement made by this witness. I am not going to permit another question that is purely for information.

Mr. O'Brien: We have before us the testimony on the direct as to the ways in which they check up their accounts. We have statements made here that bills are rendered by the affiliated companies for gas transferred. Now, presumably here is a bill on stationery of the Stand-

ard Gas Light Company, and they have marked here, "Paid by check," yet it is supposed to be a credit, a credit to the Consolidated Gas Company. Now, isn't it a natural question to ask whether that represents a check drawn by the Standard Gas Light Company to the complainant, or whether this particular credit was embodied in some check that was paid to the—

The Master: No, I think you have covered enough on cross-examination.

Mr. O'Brien: One answer will solve that as to all the vouchers. 18122

The Master: All right, give us that one answer.

A. It frequently happens, and has in this particular case, that there would be several vouchers in favor of the Standard Gas Light Company, and one voucher against it. All three of their vouchers in their favor would be combined, and one net total shown, and one check drawn for settlement.

The Master: And thereupon reference is made to that same check.

The Witness: Yes, sir, on each of the vouchers.

Mr. O'Brien: I ask that the vouchers of the Standard Gas Light Company be marked for identification. 18123

Vouchers Nos. 1,386; 2,936; 4,299; 5,762; 7,515; 8,834; 10,274; 11,814; 13,183; 97,447; 14,592; 15,075; 16,023; 18,024; 18,294; marked Defendants' Exhibit ZZ for identification.

Q. Will you state, Mr. Brundage, in general terms, what transactions are referred to in the general books of account with the National City Company?

A. During what year?

Q. 1918?

A. During the year 1918 you will find in the ledgers

that there was one loan, as I recall it. If there are any more the operating ledger will show it. This was paid off in several items, that is loans from us to them, and they paid that loan off in several instalments.

Q. I don't mean the National City Bank now, the National City Company?

A. The National City Company, that is my recollection, the ledger will show it.

Q. Is any officer of the complainant company an officer or director of the National City Company?

18125 A. No, sir.

Q. Is any trustee of the complainant company connected with the National City Company?

A. I don't know as to that.

Q. There are loans made by the complainant company to many other corporations?

A. To our affiliated companies.

Q. And are they set up in separate accounts?

A. They are.

Q. Or is there one account that will embrace all the matters of loans?

A. A separate account for every loan made.

Q. Did this loan or loans to the National City Com-

18126 pany bear interest?

A. It did.

Q. At the legal rate?

A. That is my recollection.

The Master: Do not the books show, Mr. O'Brien? There is no use asking this witness what the books show when you have the book in front of you.

Mr. O'Brien: No, it does not. This refers to some other book of account. There is a cross reference, but it is not indicated just what that cross reference is.

Q. Mr. Brundage, I call your attention to "Miscellaneous Accounts" on page 320 of the sundry debtors ledger No. 7, and ask you to what books of account these cross references refer?

A. The first item that you are looking at refers to an entry found in the sundry debtor's blotter No. 46, folio 459.

Q. Are we safe in assuming that every cross reference under that column is to the sundry debtors blotter?

A. Every one.

Q. Now, this credit to the Fifth Avenue Coach 18128
Company is for rent of land in the Bronx?

A. Let me see the item. I would not care to say that without looking at the blotter entry.

Q. Do you know what the relations between the complainant company and the New York & Queens Electric Light & Power Company are?

The Master: Objection sustained. If you think that I am going to permit you to go through every item on that page and make inquiries of various kinds that may occur to you having no specific purpose in mind, you will have to change your thought about it right away. I am not going to permit another question on that line.

18129

Mr. O'Brien: I want to say, your Honor—all I want at this time is to bring out from the witness his lack of knowledge of these big matters to show that he is unable to say that these books are correctly kept.

The Master: Ask one or two questions.

Mr. O'Brien: On the other branches of the matter, it is to show that there are various moneys belonging to the company that are loaned to other people. Presumably these are earnings of other years used by this company.

Mr. Ransom: They are proceeds of the sale of stock of this company which have been invested in other things.

Mr. O'Brien: The burden will be on the complainant to show where the moneys came from, and that they are not invested for the benefit of the consumers. Whatever may be said upon the issue involved, I want to make the record, and will make it if I am permitted to. I do not intend to ask a long list of questions when I get the tenor of the witness's mind on these things.

18131 I have in mind that a great many of the questions would be the same, and I will bulk them together if you will permit me.

The Master: I will let you ask one question, whether this witness, without reference to the sundry debtors' blotter will be able to give you the details of any of these items.

The Witness: I will answer, no, I cannot.

The Master: I am not going to let you ask questions as to whether somebody who owned some stock in this company ever looked at some other company, or ever happened to pass by the property or some other question like that.

18132 Mr. O'Brien: What are you going to say to the fact that thousands and thousands of dollars have been loaned out—

The Master: I should say that perhaps I should have known it some time ago, and should have been around to do some borrowing myself.

Mr. O'Brien: I will ask my questions, your Honor, and can do what you want as to your ruling.

The Master: I am not going to waste time on it.

Mr. O'Brien: There is no waste of time on

this. There are a lot of items here that I call your attention to now, various items, on pages 320, 321—

The Master: I don't want you to call my attention to them now. I don't want to hear anything about it. This is not time to argue this case.

Mr. O'Brien: I want to state what my offer is.

The Master: I don't want you to state. When you ask a question I know what your offer is. I am going to let you ask one more question so 18134
you will have no mistake about your record.

Q. Mr. Brundage, will you cast your eye over the whole of this account entitled "Miscellaneous Account," on pages 320, 321 and 322 of this sundry debtors ledger No. 7, and state whether you are able to explain what these notations and figures set opposite them mean?

The Master: That question doesn't mean anything. It means that somebody owes you money from time to time; isn't that so?

The Witness: It does.

The Master: Can you give us the details of each transaction? 18135

The Witness: From this record?

The Master: Yes.

The Witness: I cannot.

Q. From any record that is in this court?

A. Yes.

Q. Will you proceed to give us the explanation?

The Master: Objection sustained. As I understand it, Mr. Brundage, the defendant Swann has experts at your office analyzing these accounts?

The Witness: He has.

Mr. Ransom: He has some of them analyzing our accounts around town, we don't know where, with things they have taken away.

Mr. O'Brien: You have made a lot of cracks about that already, and I haven't taken the time of the court here to enter a demurrer, but I am going to.

The Master: You see, Judge, it serves you perfectly right. You have started something that is going to waste ten minutes.

Mr. O'Brien: You are talking at random about
18137 something you don't know anything about, not at Ransom, but at random. I am not going to interfere with the presentation of the case for a minute. No expert representing the defendant Swann has any of your papers, to my knowledge.

Mr. Ransom: You don't know, that is all.

Mr. O'Brien: No expert, so far as the defendant Edward Swann is concerned, is working on gas transferred matters at the present time, to my knowledge.

Mr. Ransom: Is Mr. Sangster employed by the defendant Swann?

Mr. O'Brien: Mr. Sangster is doing work for
18138 the defendant Edward Swann. If he has some paper that you want presented I would be glad to have him here any time you say. If there is some explanation on a paper that the witness is not able to give, I don't want to put you to a disadvantage by failing to produce a paper.

Your Honor, I trust you will indulge me while I proceed along this line of investigation. I will endeavor to be as brief as I can, but I want to bring out through the witness that in this sundry debtors' ledger there are reflections of transactions between the complainant company and

their various companies, affiliated companies, that involve matters other than gas transferred.

The Master: Well, he has said that, he has said they loaned them money.

Mr. O'Brien: Not only that—

The Master: What else is there?

Mr. O'Brien: I am going to ask him in as brief and as broad questions as I can, so we will not consume time—

The Master: Well, I will ask him right away: aren't there other relations between this company, the complainant, and the affiliated companies? 18140

The Witness: Yes, sir, the conditions being that the Consolidated does work through its Street Department for the affiliated Manhattan companies, and bills them for that work through this record.

The Master: And loans them money?

The Witness: Loans them money.

Q. Go ahead.

Mr. Ransom: I think that has already been covered.

The Master: I think it has, too, but I wanted to get Mr. O'Brien's record for him, because I am going to stop his cross-examination. 18141

The Witness: Any expense incurred for the account of any other company we would charge the other company for through this record.

Q. Could you briefly tell us, in broad and comprehensive terms, just the nature of the transactions that are covered in the sundry debtors' ledger, these intercorporate matters?

Mr. Ransom: I object to the question.

The Master: I have all I want of it. Objection sustained.

18142 Henry M. Brundage, Cross.

Q. I ask you now, Mr. Brundage, whether the relations that are described here, page 379 of the sundry debtors' ledger, between the complainant and the New York & Queens Electric Light & Power Company, covering the matters of petty cash and claims in arrears, draftsmanship, legal expenses, American Red Cross, services of employees, etc., are similar to those between the complainant and the other companies?

A. The items you have just read represent expenses or items disbursed by us for the account of the com-
18143 pany of which you are reading, which is billed to them through that record.

The Master: And you will probably find similar items against the other companies.

The Witness: We will, sir.

Q. And the United Electric Light & Power account on pages 382 and 383, would fairly reflect also the relations that exist between the complainant company and the affiliated companies?

A. Same conditions.

Q. Covering the purchase of various materials and the employment of various services, the expense of which is partly charged up to the various affiliated
18144 companies like in this United Electric Light & Power Company's account?

A. Yes.

Q. And the whole of this sundry debtors' ledger is filled up with accounts of that nature?

The Master: Objection sustained.

Q. Showing the intercorporate relationship between the complainant company and the affiliated companies?

The Master: Objection sustained. The book speaks for itself.

Q. I call your attention to the account of the First National Bank on pages 390 and 391, and ask you

if those entries cover merely deposits made by the company in that bank and withdrawals, or do they embrace also loans made by the complainant to the bank or the bank to the complainant?

A. Neither. The account which you are now looking at First National Bank is for interest on daily balances which is paid once a month.

The Master: That is an illustration of what I have been saying right along, that there was absolutely no point in the question asked about it. You had nothing in mind, did not know what it referred to, and you were simply asking 18146
a question out of the air, which was purely a fishing excursion. I won't permit another question of that kind, and I am not going to permit counsel to ask another question as to what something means in that book.

Mr. O'Brien: On that point let me ask, if I may, with all deference to your Honor, this question: Books of account over our objection, upon a general statement made by this witness that they are the books of the company, the general books of account, that they have been kept in that way for a number of years, that they are based upon records that flow in from various 18147
sources and through various channels to the main office of the company, that they have various tests that they use from time to time to try out the accuracy of the accounts; that these books having been offered in evidence and on them having been presented a schedule of expenses and receipts for the year showing the deficit claimed of $198,000, the witness having been produced here for cross-examination as the man who knows all about these books and who is able to state that everything in there has been

tested out and found correct, I respectfully submit, your Honor, that I am entitled to cross-examine him as to whether they are correct, what his knowledge is, his actual knowledge, as to these accounts, that might lead him to say in court under oath that he knows that these books are correct, the payments made there, the expenses were incurred and the receipts were received as noted in these books. Now, in support of that I call your attention to the fact that the way in which these books are kept,
18149 the way in which cross references are made or not made, the way in which in some accounts you are run up a blind alley, with no place to go, and I am speaking about an accountant now, the books to go and make oral inquiry of some subordinate in the gas company, and failing to get that you are absolutely at the end of your ropes, so far as trying to trace and verify an account of this company, all of that goes to the questions that are in issue in this case, and there isn't any fishing excursion. I want to examine this witness as to the method of this particular book; I want to show your Honor that the intercor-
18150 porate relationship between this complainant and the affiliated companies is such that all of the business is done in one office, done by the same set of men, the money flows from one pocket into another, and then there is such an entanglement of intercorporate relationship there, physical and legal and financial, and through accountancy, that you cannot try out this case without trying out the condition of every one of these companies, and that in spite of the fact that some one may assert that there is a corporate entity

still existing in each one of these separate corporations.

Now, the question here was as to the account of the National City Company, the National City Bank. Perfectly proper for me to ask whether certain figures that are unexplained in this book represent deposits there and withdrawals or represent loans from the bank and payments on those loans; and why you should say that is a fishing excursion I don't understand. But I will endeavor, without encroaching on the patience of the Court, and without seeming to be lacking in respect for your ruling, I want to proceed to make a record upon this book, so that it will be clear, when we are through with this session, just where your Honor stands upon the propositions I have brought forth. The point that I wanted to bring out, and it could not be brought out by a blanket question, is that in the minutest matters the complainant company is doing all the business of the affiliated companies, the hiring of help, the draftsmanship, the stenography, photography, advertising, restaurant, mains, meters and services, coal and oil and all those various things are transacted out of the one company's office and then charged up on the books to the other companies. Now, I don't know any way in which I may have an adequate picture of that upon the record in this case than by asking the witness, because the books themselves unexplained do not give the complete story, and that is why I have taken up your Honor's time. 18152 18153

Q. Has this company got an office at Madison Avenue and 42nd Street?

A. At Madison Avenue and 42nd Street?

Q. Madison Avenue and 42nd Street Building?

A. No, sir, we have not.

Q. Do you know why the payments were made to that building?

A. I do. We had an office there at one time, a gas appliance display room.

Q. During the year 1918?

A. No.

Q. Do you know who the owners of that building were?

A. I do not.

Q. If I were to ask you about the Standard Gas Light account on page 86 in reference to the makeup
18155 of the several items and their sources of information, your answer would be the same as it was with regard to the United Electric Light & Power and the New York & Queens accounts?

A. It would.

Mr. O'Brien: Your Honor, I would like to take him through that account briefly. There are a variety of expenses there charged up against the Standard.

The Master: The books are there.

Mr. O'Brien: They might be explained.

Q. Mr. Brundage, whose pencil markings of dates are here?

18156 The Master: Objection sustained.

Mr. O'Brien: Your Honor, there are certain pencil markings here that are apparently throwing these expenses over into another year.

The Master: I don't care about it.

Mr. O'Brien: I refer to pages 94 and 95 in the question I have just asked the witness as to who made the markings of dates on this account indicating payments of these bills on the various items at some time during the year 1919, and not in 1918.

Mr. Ransom: Inasmuch as this is a 1919 book

of account you are looking at you would naturally find they were paid in 1919. You were looking at July, 1919.

Mr. O'Brien: I may be in error on that, but I thought I had a 1918 book.

Mr. Ransom: The pencil notations to which you were referring were in July, 1919.

Mr. O'Brien: No, I thought you were going to point me an error, but that is not true. There are a lot of notations here, and it is in a 1918 account.

Q. Mr. Brundage, all through the sundry debtors' 18158
ledger does the column giving the cross references refer in every instance to the sundry debtors' blotter?

A. On the debit side, yes.

The Master: On the credit side to what?

The Witness: The cash book.

Q. The credit side is usually kept blank, is it not?

The Master: Objection sustained. The book speaks for itself.

Mr. O'Brien: As long as we have brought out one fact, I thought we would bring out the other.

Q. Mr. Brundage, I call your attention to page 837
of the operating ledger B for 1919, and ask you what 18159
expenditures, generally speaking, are incorporated in this "Promotion Expense Utilization Department" account.

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Your Honor, I do not intend to ask him about each item here, but I want to know what segregation is made in this particular account, whether it embraces the affiliated companies, and any entries here without explanation may have the name of a person or corporation

without any explanation for it, and referring to cross references it might be vouchers or may be journal entries.

The Master: I will not allow the question.

Mr. O'Brien: I will note an exception to your Honor's ruling.

Q. Does the pay roll for utilization department come into the accountancy department in the same way in which other pay rolls do?

The Master: Objection sustained.

Mr. O'Brien: Exception. If your Honor is
18161 going to make a general ruling that I may not ask the witness to explain the payments made under this account entitled "Promotion Expense, Utilization Department," or the meaning of the cross references, or some references out of the ordinary like "G. O. W." the insertion of words like "Utilz" instead of cross references, the reference to the use of certain words instead of numbers in the cross reference column, and many other of the hieroglyphics in this account, of course I will not go ahead repeating questions awaiting a negative decision from your Honor.

The Master: I will not allow it.

18162 Mr. O'Brien: I take exception to your Honor's ruling, and I now, for the purposes of the record, desire to go into this account "Promotion Expense, Utilization Department" to find out the meaning of many items that are unexplained on the books.

The Master: On this book?

Mr. O'Brien: On this book, that do not clearly state whether they refer to a voucher or a journal entry number, or to a report or memorandum or record other than books of account. I propose to find out on what authority payments

in this particular account are paid out, marked O. K. by the witness—whether the same procedure is followed as was followed in regard to transferred gas, how far these various expenses are paid out on executive order or on an O. K. from Mr. Carter's office or an O. K. from somebody else. That can be done briefly without taking up a whole lot of time, and I therefore ask that I be allowed to proceed with that form of questioning.

The Master: I will sustain the objection. I stand by my ruling. I think the cross-examination 18164
has gone far enough, especially in view of the opportunity afforded the defendants and their experts to make an exhaustive investigation of the vouchers, records and documents of the gas company.

Mr. O'Brien: Assuming that the defendants are all going to have a corps of investigators, statisticians or accountants on these books, and assuming it is just the books of the complainant and the schedules built up on those books, extraneous matters, to be examined by their expert accountants, and we come back in with an attack on those figures. We are not compelled to 18165
do that and the burden of proof is not on us. They have got to prove their case. But assuming that we have done that, your Honor, it means more rebuttal. They will have to supplement their case, and that may be obviated by a fairly thorough cross-examination.

The Master: Here is the trouble with it: Mr. Brundage's cross-examination was held open for a month in order that your experts might inquire into these accounts, and you might then by cross-examination show errors or misstate-

ments, or whatever else you might find to criticise in these accounts. If your experts have not given you information you are not to be blamed for not being able to ask the questions, but I am not going to permit a fishing excursion to proceed any further. There was not any sense of my postponing the cross-examination for a month to have this kind of cross-examination.

Mr. O'Brien: I object to your Honor's characterization of the questioning on my part of the witness as a fishing excursion.

18167 The Master: That is my judgment of it. So long as you have not and your experts have not pointed out some defect somewhere that you want to bring out on cross, you are on a fishing excursion. Mr. Chambers had before him when he was cross-examining a memorandum prepared for him apparently by Mr. Maltbie, in which he called attention to certain particular things and he brought out those particular things in his cross-examination. That is what I expect you ought to do.

Mr. O'Brien: I am quite well satisfied with myself so far.

18168 The Master: I think you ought to be. I have let you go further than I should. I am not going to permit any more fishing into this account.

Mr. O'Brien: The point I want to bring out is that relating to the general source of these payments.

The Master: That I rule is sufficiently covered

Mr. O'Brien: I take an exception to your Honor's ruling, hoping still that you may reverse yourself in part.

Q. I ask the witness whether there are any payments

made under "Promotion Expense, Utilization Department" on executive order?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. I ask the witness whether any of the payments that are reflected in this account "Promotion Expense, Utilization Department" were made on O K from the secretary's office?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Mr. Brundage, I call your attention to page 845 now of this operating ledger B, 1919. I call your attention particularly to this account: "Salary General Office," and ask what these cross references mean, in each instance, "G. O. M."? 18170

A. That stands for pay roll general office monthly. There is a general office monthly pay roll, as I have testified

Q. I call your attention to the initials "G. O. W." and ask you what that means?

A. General office weekly.

Q. And to the next line, "Trans."?

A. That is the transportation pay roll, and relates to cost of transportation of paymasters, applicable to the treasurer's department.

Q. And "Cons." would mean construction work, would it? 18171

A. That is the construction pay roll.

Q. Where there are other entries under this cross-reference column, they refer to what particular book?

A. All these numbers are either journal folios or voucher number.

Q. There isn't anything there in that cross-reference column to indicate whether they are one or the other?

A. It is hardly necessary that they should be.

18172 Henry M. Brundage, Cross.

Q. I asked you whether there is anything there to indicate?

A. No.

Q. I call your attention now to "Miscellaneous general expense account" page 877 of the operating ledger B for 1919, and ask you what the references are under the cross-reference column?

A. Voucher numbers.

Q. Invariably?

The Master: Objection sustained.

Mr. O'Brien: Your Honor, you have not seen
18773 this page yet.

The Master: I don't care to see it.

Mr. O'Brien: There are various cross-references that need explanation.

The Master: You ask your experts if they haven't got the explanation.

Mr. O'Brien: I have a witness on the stand, your Honor.

The Master: Objection sustained.

Mr. O'Brien: You see there is where the error is being made right along in your rulings, that you are assuming that the defendant is going to come in and prove some kind of a case.

18174 The Master: No, I am assuming that if there is anything wrong about these books that your experts would have discovered it so you can point it out. That is what Mr. Chambers has done. I am not going to permit these questions. An adjournment was taken so you could get the information and data on which you could cross-examine.

Mr. O'Brien: If you will let the witness reply we will get the explanation.

The Master: Objection sustained.

Mr. O'Brien: I am going to give the witness

an opportunity to explain a lot of matters that have got to be explained by the company, they have to be justified in some way.

The Master: I don't know how he is going to explain it if I do not permit the question.

Mr. O'Brien: Well, the record will stand as you make it.

The Master: That is the way it will be.

Mr. O'Brien: Take all the payments made in January to R. E. Livingston—

The Master: I do not see why you should worry about the complainant's record. If they 18176
haven't explained it that is their burden and not yours.

Mr. O'Brien: If your Honor will only permit me to go my way, I know what I have in mind, and I rather chafe under the statement that I am on a fishing excursion. I know what I want. For instance, right on this page, this witness has sworn, when I pressed the question, he said that he didn't know that Robert E. Livingston was a publicity agent, and paid as such by this company, and right here is one of his own books with a publicity expense showing payments made to R. E. Livingston.

18177

The Master: That is all you need. Call attention to it. The book speaks for itself.

Mr. O'Brien: That is one of the things I am going to bring out.

The Master: But the book speaks for itself, you don't have to ask the question. All you have to do is to point it out to me.

Q. Mr. Brundage, will you tell me what E. N. G. means under the cross-reference column?

The Master: I will sustain the objection. I am going to assume that the experts employed by counsel for the defendants know what it means.

Mr. O'Brien: Exception.

Q. Will you tell me, Mr. Brundage, what if any of the expenditures recorded here in the miscellaneous general expense account were made on executive order?

The Master: Objection sustained. He would have to look at the vouchers to find that.

Mr. O'Brien: Well, he can classify them, he knows what they are.

The Master: Objection sustained.

Mr. O'Brien: He has attempted to do it this
18179 afternoon. Maybe this will refresh his memory so he can do it completely.

The Master: No, I will not take it.

Mr. O'Brien: Exception.

Q. Will you state what if any of the expenditures recorded in this miscellaneous expense account running from page 877 to 884 inclusive in the operating ledger B for 1919, are made on an O K from Mr. Carter's office?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. And what of all of those expenditures on the pages I have given in full are made on executive or-
18180 der of the president of the corporation?

The Master: The same ruling.

Mr. O'Brien: Exception.

Q. I ask you now whether all of the expenditures set forth in the miscellaneous general expense account for the year 1919, on these pages that I have referred to are charged up to operating expense for the year 1919?

A. They are.

Q. Was the payment of $2,500 on January 22d to Whitman, Ottinger & Ransom, charged up to operating expense of that year?

18181

The Master: Objection sustained, and I call Mr. O'Brien's attention to the fact that the question is utterly useless and a time waster, in view of the last question and answer. The witness said all these items were included in operating expense, and there was no purpose in the world in asking this question except to spread on the record a payment to Whitman, Ottinger & Ransom which would appear on the record anyhow. It is a time-wasting question.

Mr. O'Brien: Well, now—

The Master: I mean what I say.

18182

Mr. O'Brien: Your Honor, I mean—

The Master: When this witness says that every item was charged to operating expense, what is the use of picking out one item and asking whether that was charged to operating expense. Of course it was if all of them were.

Mr. O'Brien: There are several reasons why I ask that question, your Honor; first, that the witness has corrected himself many times since he went on the stand, because as I looked over the page here, there are three accounts that are not printed in this record, but that are added, and it might elicit, out of fairness, to the other side, the statement that they are not going to charge up rate expenses to the operating expenses of this year.

18183

Mr. Ransom: You have a statement for the eight months of 1919 which shows in detail just what expenses are charged as operating expenses for the year 1919, and that statement which has been in your hands for a month now, shows that each of these items shown on folio 877 are included.

Mr. O'Brien: I do not know what particular date it was, a few weeks ago, that you handed up that supplemental schedule for 1919 made by Mr. Teele, but I do not need to say to you how I have been engaged since that schedule came in.

Mr. Ransom: I hope you have been engaged in looking over this book.

Mr. O'Brien: I have been pretty busy with what has gone on in this court room. Your statement is sufficient, you have stated that it is in-

18185 cluded.

Mr. Ransom: It is shown on Exhibit 355, for identification.

Mr. O'Brien: Your Honor, I think that I will leave the operating ledger at this time in your care until I meet the witness again. I mean on this particular matter.

The Master: How do you know you are going to meet him again?

Mr. O'Brien: I am going ahead with another branch of my examination now, but I call this particular account to your attention, because it has a number of vulnerable expenditures.

18186 The Court: Don't do it now, because I am going to ask you when we come to summing up, to point out the items you say should be excluded.

Mr. O'Brien: As we go along with our trial, you can see there are two or three extremes that might be adopted by people reperesenting the defendants. One counsel might sit down and allow the plaintiff to put in a minimum of proof and never say a word about this or that, as you go along, and another counsel perhaps more scrupulous as to his public duty and the duty he owes

himself will, as he goes along, call attention to some matters that need explanation and ought to be explained *in transitu* during the trial of a case. It may be beyond his particular duty to do it, but I followed that course, as you perhaps recognized right from the beginning of this case. Instead of waiting until counsel gets through and calling attention to a whole lot of glaring defects, I have endeavored as we have gone along to point out this, that, and the other thing that needs explanation, and I have endeavored, and perhaps in that I have gone beyond the scope of 18188
my duty on cross-examination at times, to open the door and give ample time to a witness on the stand to make explanation, if there be any. Your Honor has seen fit to speak about fishing excursions. I have put many questions today to this witness out of fairness to him, where there was something that needs explanation, and in some cases not without enough knowledge to guess as to what the answer is going to be, but because it needed explanation, to give the witness a chance to explain it. That has been done in fairness and with candor and with consideration for the complainants in the case. 18189

The Master: If you are through with that book, we will adjourn until Monday at two o'clock.

Mr. O'Brien: All right, your Honor, but this particular account is illustrative, because of the way in which they have allocated these various accounts to the unusual and unnecesary and absolutely unallowable expense in a rate case. We have for instance, rewards, a number of rewards made, miscellaneous meetings, fees, books and periodicals, society of gas engineers, gas account-

18190 Henry M. Brundage, Cross.

ants' society, and other societies, publicity expense, news service, gas rate appeal, defensive emergency service, notarial fees and so on. You can see, your Honor, how necessary it was for me to go into that matter, but with your rulings I am going to leave that particular account with you. I wanted to take up the employee's mutual aid society and the insurance fund, and I will go into that on Monday and endeavor to cover the ground as briefly as I can.

18191 Adjourned to Monday, November 10, 1919, at 2 o'clock, P. M.

Last Complainant's Exhibit 362.

Last Defendants' Exhibit ZZ.

18192

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 18193

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 10, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant NEWTON.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 18194
MR. O'BRIEN, of Counsel for defendant Swann.

HENRY H. BRUNDAGE, resumed the stand:

CROSS-EXAMINATION CONTINUED BY MR. O'BRIEN:

Q. Mr. Brundage, is an agency agreement still in force between the complainant company and the affiliated companies?

A. Yes, sir.

Q. Do you recall the date of the contract? 18195

Mr. Ransom: I object. That has been fully covered.

The Master: I will let the witness say whether he recalls the date.

A. Approximately 1902.

Q. That is the agreement that was an exhibit in the old case?

Mr. Ransom: Objected to as incompetent.

The Master: It is allowed, if he knows.

A. I do not know, sir.

Q. Do you know generally the terms of the agency agreement?

A. I know that they provided that gas was to be transferred at station cost plus ten per cent.

Q. Have you in the course of your employment with the complainant company or in connection with any of the affiliated companies ever taken advantage of the provision in this agreement for the inspection of the books and records of the affiliated companies in connection with the cost of making gas?

Mr. Ransom: Objected to.

The Master: The question is not allowed, on the ground that the witness has already stated
18197 that before they pay a bill some man in Mr. Carter's office checks up the books of the affiliated companies to see that the bill is correct.

Mr. O'Brien: Your Honor, the witness's signature is appended to these bills and he has marked them "Approved" and I am asking about his taking advantage of these provisions.

The Master: And I have made my ruling.

Mr. O'Brien: I note an exception.

Q. Do you know these provisions, Mr. Brundage, in the agency agreement covering the matter of the inspection of the books and records of the affiliated companies, which are parties to such an agreement?

18198 Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Mr. Brundage, I call your attention to page 974 of the Operating Ledger A—

The Master: Of what year; 1918?

Mr. O'Brien: Of 1918. Well, this one is 1919 and I meant to have my 1918 here.

Q. Can you explain the meaning of the descriptions in this account, the balance and the date as of which this balance is entered, it being without date?

The Master: What account is that?

18199

Mr. O'Brien: Fire Insurance Participation Reserve.

The Master: What is the point of the question?

Mr. O'Brien: The point is we have got something here that does not speak for itself, your Honor, and I want this insurance participation explained by the witness.

The Master: It has been explained by the witness. I will not permit further questions on it. Objection sustained.

Mr. O'Brien: The specific question is as to an account in the book here that is without date— 18200

The Master: Objection sustained.

Mr. O'Brien (continuing): Has a balance that has no date and that of itself, without some oral explanation, cannot be understood.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Do you know how much was paid into this fund, the participation fund, covering fire insurance for the year 1918?

The Master: Will the books show, Mr. Brundage?

The Witness: Not the way he asks the question, your Honor. The amount paid to the insurance trustees will show in the books of account. 18201

By the Master:

Q. That is paid into the fund, isn't it?

A. It is paid for insurance, your Honor, and is charged to insurance and operating expense account.

Q. Whatever profit there is in the insurance venture comes back?

A. Yes, sir, in participation certificates, as I have already testified.

Q. And is credited to the operating account?

A. No, sir, it is charged to the insurance fund investment and credited to this reserve that he now has before him.

Q. How is the rate fixed on which you pay for insurance?

A. Fire or liability?

Q. Either.

A. Fire insurance is established by the trustees; liability insurance is likewise fixed by the trustees of the fund.

18203 Q. In other words, if the trustees charge too much on the rate basis for fire insurance, you are paying too much for that item, that is charged to operating expense?

A. If they were to charge too much, yes.

Q. Who determines whether their charge is reasonable or not?

A. That is passed upon by our executive officers, the rate charged in all these years being somewhat lower than similar insurance could be secured from outside companies.

Q. Who knows that?

18204 A. Primarily our treasurer's department.

Q. You are only talking from the basis of what you assume is done, are you not?

A. I have seen computations, your Honor, which show that the premium paid is less than the rates charged by insurance companies.

Q. In other words, you are prepared to say that the treasurer does in fact compare the rates charged by these trustees and the rates charged by old line companies?

A. Yes, sir. Now, on the item of liability insurance, the rate charged is the same as is charged by in-

18205

surance companies, but when you insure with an outside insurance company the amount of recoverable insurance is limited to $5,000 for any one accident, whereas, under our arrangement—

Q. (Interrupting.) That depends on what premium you pay. You can have it limited to ten or twenty if you pay enough for it, you know.

A. But for the same rate, your Honor, liability insurance companies will only carry a $5,000 risk for any one individual, whereas the company carries an unlimited risk.

18206

Q. Your testimony is that in fire insurance the rate charged by outside companies is somewhat greater than the rate charged by this company?

A. Yes, sir.

Mr. O'Brien: I am going to object to the question as incompetent, irrelevant and immaterial, as being altogether too vague. It does not specify the definite properties on which it is undertaken to make a comparison between what they charge themselves and what other companies will charge; that the rates would differ according to various locations of different property.

The Master: Of course that is so.

18207

Mr. O'Brien: On the further ground that the witness has not yet stated that he knows the rate that is charged by the company. He cannot begin to make a comparison.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Q. As to liability insurance you testify that you know that the rate charged by the trustees is the rate charged by regular insurance companies on a $5,000 limited liability?

Mr. O'Brien: Same objection.

18208 Henry M. Brundage, Cross.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Yes.

Q. So that with this insurance fund there is an unlimited liability, and that is a smaller rate than the straight line companies would charge?

A. Yes.

Q. In these computations you have seen, of comparison between the fire rates charged by the trustees and fire rates charged by regular line companies, was it a flat rate to all gas works, or did it give the different rates to different locations of gas works?

18209

A. The rates I have seen some few years ago, your Honor, had reference to stations—that is, plants.

Q. Particular plants?

A. Yes, sir.

Q. The rates varying as to particular plants and the rates charged by the trustees varying as to particular plants?

A. Yes, that will vary at different locations in the city, sir.

By Mr. O'Brien:

Q. Do you know what the rates were for liability in 1918?

18210

A. No, I could not tell you from that.

Q. Do you know what they are today?

A. No, sir.

Q. Do you know what they were in 1917, for any given kind of employment?

A. No, sir.

Q. Do you know what the fire rates are?

A. No, sir.

Q. Do you know what they were in 1918, 1917, 1916, or any other year?

A. I would not attempt to give any of those figures out of my head, Counselor.

18211

Q. Can you give them out of anybody's head, or anybody's book?

A. They are matters of record, of course.

Q. When you say you saw something that makes you think your rates are smaller than they would be in other insurance companies, what did you refer to, some report?

A. I referred to some data that I saw in our treasurer's department some few years ago. The details have escaped my memory, but I do recall it made an impression at that time that the insurance rates were lower than we would have to pay if we went outside.

18212

Q. Has the complainant company had any fire losses in the last five years?

A. Yes.

Q. To what extent?

A. I could not answer that question out of my head.

Q. Where are they set up in the books of account?

A. When we have had any losses by reason of fire we would collate those losses in our suspense accounts and when the work was completed and a settlement made with the insurance trustees, it would be credited to that account.

18213

Q. Will you turn to your suspense accounts and tell us what the fire losses were, according to the book figures, in the year 1918?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception. Your Honor, I do not know just the position the Court is going to take on these various matters. Of course, if your Honor holds these books are not any evidence—

The Master: No, I hold they are some evidence.

18214 Henry M. Brundage, Cross.

Mr. O'Brien (continuing): Tending to show that certain expenses are operating expenses—

The Master: I hold they are some evidence.

Mr. O'Brien (continuing): Then, of course, it would be futile for me to go ahead. However, if they are some evidence, this is the time, it strikes me, to ask these questions. It is not what the witness testified in his direct oral testimony that we have up for cross-examination, but everything that came through that direct-examination, to wit, these books of account; these books are
18215 speaking through Mr. Brundage to us, and I have to cross-examine the books through him. Therefore, I suggest I must find out from him by cross-examination as to just what these figures mean; because they will not mean anything to even a skillful bookkeeper wherever, particularly, they are based upon records and documents that are extraneous to the books.

The Master: I agree with you insofar as you are entitled to a reasonable examination, and I am sustaining objections when I think you have gone beyond the line of reasonable examination.

Mr. O'Brien: In regard to the specific ques-
18216 tion on which I made my statement just now, we are told that fire losses are set up, and I have asked the witness and he cannot give them out of his head, and I have asked him to refresh his memory from the suspense accounts, and tell us what the fire losses were for that year.

The Master: No, I will not permit it.

Mr. O'Brien: I note an exception to your Honor's ruling.

Mr. O'Brien: I renew the same question with respect to the fire losses of the current year, 1919.

The Master: The same ruling.

Mr. O'Brien: 1917, and each year down to 1905.

The Master: The same ruling. The books speak for themselves.

Mr. O'Brien: Exception. The books are mute on many of these matters; the figures are more or less hieroglyphics. I do not think your Honor intends to let this pass in that way. Take this account, "Fire insurance participation reserve." There is something that does not say what it is, it does not show that it balances as of the first of 18218 the year.

The Master: What is the balance as of the preceding year?

Mr. O'Brien: There isn't any.

The Master: What does the account show at the end of the preceding year?

Mr. O'Brien: That I have not before me just this minute.

The Master: That is the answer to what I have in mind. I say that a lot of this is wasting time. I say if you look at the 1918 books you will probably find what this balance is that was carried down from that old account. I will not 18219 permit this cross-examination that takes hours and days.

Mr. O'Brien: Then the case will suffer all the more if your Honor is not going to permit me to come in here and ask these questions, because you say the books speak for themselves. I insist that the books do not speak for themselves.

The Master: The case will not suffer at all.

Mr. O'Brien: Here is a statement made with-

out date, "fire insurance participation certificates." That does not mean anything, if some one has to go to Mr. Brundage or Mr. Davidson or Mr. Carter or someone else and ask what these things mean, then I contend all the more that these books should be ruled out of evidence. If the witness answered all these questions, your Honor, certainly the case does not suffer by having this witness's answers in the record.

The Master: I will stand on my ruling.

18221 Q. Mr. Brundage, do you know whether an actuary was ever employed to go into the question of fire insurance by the complainant company before they adopted the system of self-insurance covering fire losses?

A. I do not.

Q. What year did they begin the system of self-insurance?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Are all the affiliated companies in this scheme of self-insurance?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

18222 Mr. O'Brien: Exception.

The Master: I think there was marked in evidence, or reference made in the record, to the insurance agreement.

The Witness: We submitted the agreement, your Honor.

The Master: I remember somebody read from the agreement the names of the various companies.

The Witness: I did.

The Master: Who were originally in it, and who afterwards came into it.

The Witness: Yes, sir.

Q. Is the New York & Queens in that agreement?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Is the Edison Company in that agreement?

Mr. Ransom: Objected to.

The Master: Same ruling, and that same ruling would apply if you ask as to every other company, because I shall rule that it is in the record, what companies were in it.

Mr. O'Brien: Exception.

Q. Mr. Brundage, has the Consolidated Gas Company any investment in gas companies outside of the City of New York? 18224

Mr. Ransom: Objected to.

The Master: I think that objection will have to be sustained. The books show the stock owned by this company in other companies by way of investment, do they not?

The Witness: The books of account carry an account called, "Securities, Stocks and Bonds of Other Companies." The details of the securities represented by that account are not shown in the books of account.

By the Master: 18225

Q. Doesn't it show what stocks there are and what bonds there are?

A. No, not the books of account.

Q. It shows they get interest and dividends from them?

A. The dividends received are credited very probably to "Dividends Received," and the name of the company they came from.

Q. So, if you look at the account, it shows where you got your interest and dividends from?

A. No, I could not say that.

Q. Will it show what companies you own stocks and bonds in?

A. No, we carry an account under the title I have described, and we have charged to that account any securities as they were acquired. The details of the par value thereby acquired is a matter of record in the treasurer's department, and also in the Public Service Commission reports.

The Master: Answer Mr. O'Brien's question.

18227 Mr. Ransom: I object to it as immaterial.

Q. What other companies outside of New York do you own stock in?

A. You mean outside of Manhattan Island, your Honor?

Q. Outside of the City of New York.

A. The Westchester Lighting Company.

Q. That is the only one?

A. Yes, sir.

By Mr. O'Brien:

Q. How about the Peekskill?

A. The Consolidated Gas Company does not own
18228 any of the Peekskill's stock, nor bonds.

Q. It is owned by one of the affiliated companies?

Mr. Ransom: I object to that as immaterial.

The Master: No, I will allow that.

A. The Westchester Lighting Company owns all of the common stock, and a part of the preferred stock of the Peekskill Lighting & Railroad Company.

Q. In what companies do the affiliated companies own stock in and out of New York?

A. The New Amsterdam Gas Company owns the capital stock of the Central Union Gas Company.

The New Amsterdam Gas Company owns a part of the stock of the Northern Union Gas Company, the balance being owned by the Central Union Gas Company.

The Westchester Lighting Company owns all of the capital stock of the Northern Westchester Lighting Company.

The Westchester Lighting Company also owns, as I have described, the stock of the Peekskill Lighting & Railroad Company.

Are you confining this to gas companies?

Q. No. 18230

The Master: Gas or electric companies.

A. The New York Edison Company owns a large portion of the outstanding stock of the Consolidated Telegraph & Electrical Subway Company; and the United Electric Light & Power Company owns the remaining portion of the outstanding stock of that company.

The United Electric Light & Power Company owns the capital stock of the Brush Electric Illuminating Company.

I believe that is all, Counselor.

Q. How much of the stock of the Municipal Lighting Company is owned by the complainant company? 18231

Mr. Ransom: Objected to as immaterial. The Municipal Lighting Company has been for some time out of business.

The Master: I will allow it.

Mr. O'Brien: They are getting money here, according to the books.

Mr. Ransom: At one time, yes.

Mr. O'Brien: They got it during 1918, and I am going to ask the witness about it.

A. The Consolidated Gas Company owns $3,000 par value of the capital stock of the Municipal Lighting Company, Inc.

Q. Is any of the rest of it owned by the affiliated companies?

A. Yes, I know that all the remaining stock of that company is distributed amongst the various affiliated gas companies.

Q. Does the Consolidated Gas Company or any of its affiliated companies own any of the stock of the Standard Oil Company of New Jersey?

A. I can testify that the Consolidated does not; as to the other companies I do not know.

Q. You would know about the Astoria?

18233 A. The Astoria I can testify to.

Q. They do not?

A. They do not.

Q. Does the complainant company own any stock in any of the Boston gas companies?

A. Not a penny.

Q. Do any of the Boston gas companies own any of the stock of the complainant company?

A. I am unable to answer the question.

Q. Do these matters pass under your observation in your capacity as chief accountant?

A. I testified at one of the meetings last week that

18234 I had never seen the balance sheet of the stockholders of the Consolidated Gas Company.

Q. Who adjusts the figures, fixes the losses, adjusts the figures to cover fire losses and losses through personal liability of the complainant company? Is that all done in the treasurer's office?

A. That is handled by the agents for the trustee.

Q. Are these agents employees of the company?

A. No.

Q. Who are they?

A. Hamlin & Company are agents for the trustees, both fire and liability.

Q. How do you pass payment? On what do you enter into the books records of payments made in connection with such losses or in connection with the fund? Does it all come to you with approval for the treasurer's office or secretary's office?

A. That is rather a lengthy question. Let me tell you the routine, just to make it clear to you. We will take the fire fund, if you will. At the beginning of the year our engineers prepare a list of the properties and the amounts that they wish to have insured. That goes to our agents, who prepare what they call a blanket schedule. 18236

Q. You mean Hamlin & Company?

A. Yes, Hamlin & Company, showing the locations of the property to be insured and the amount. That is then sent to our engineers who check it over and verify that it is in accordance with what they desire to have insured. The agents then make up on behalf of the trustees a bill for the annual premium to cover all of this insurance, which bill comes to our office, is checked as to mathematical accuracy, and one of our executive officers approve that bill for payment and signs an order on the treasurer's department to pay that amount in twelve equal monthly instalments.

Q. That is done by what officer? 18237

A. By one of the vice-presidents, sometimes Mr. Carter, and sometimes Mr. Gawtry. The same routine is followed in respect to the liability insurance.

Q. What you say the accounting department checks it up, in what way do they check it up?

A. Mathematically.

Q. Each company has a certain interest in that fund?

A. What I am talking about now is the Consolidated Gas Company.

18238 Henry M. Brundage, Cross.

Q. And the Consolidated Company has how much interest in the fund?

Mr. Ransom: I object to the question, it has been fully covered.

The Master: I will allow it.

Mr. Ransom: The document speaks for itself.

A. As of December 31st, 1918, the Consolidated Gas Company had an interest in the fund to the extent, as stated in the account, "Insurance Fund investment participation certificates," being certificates
18239 issued by the trustees, for the Consolidated Gas Company's portion of the fund assignable to the Consolidated Gas Company.

Q. Is the amount of your insurance limited to the amount of your interest in that fund?

A. There is no connection.

Q. You say there is no connection?

A. I do. The amount of the insurance is the amount that the engineers determine should be insured after consultation with the executives of the company.

Q. Can you say how much they increased it in 1918 over 1917?

18240 A. I cannot.

Q. Could not you say that approximately?

A. No, sir.

Q. Would the books refresh your memory, so that you could do it?

A. I would not attempt to. It is a matter of record in the office, if you want it we can show it to you.

Q. In what book of the company is it a matter of record?

A. The bill rendered by the fire insurance trustees

at the beginning of each year shows the amount of insurance carried and the amount of premium to be paid there.

Q. Well, where would statisticians go to look to find out just what losses you suffered last year, and what losses were paid?

A. A matter of record in sundry debtors.

Q. Sundry debtors?

A. Yes, sir.

Q. Is it there in express terms?

A. You could find charges against the fire insurance trustees for any losses that were settled during the year 1918, or any other years. 18242

Q. Have the terms of this agreement involving the self-insurance been changed from year to year in accordance with the experience of the complainant company in the matter of losses, fire losses?

A. No.

Q. Liability losses?

A. There has been no change in that, Counselor.

Q. When you said that you thought that the insurance was cheaper, at a lesser rate then it was in outside companies, on what did you predicate that statement, a report or—

18243

The Master: Objection sustained; already answered.

Mr. O'Brien: Rather vaguely, your Honor.

The Master: Well, that is the best I can do

Mr. O'Brien: Won't your Honor let me get out of him, so that I will know where they can be seen?

The Master: No. Not any more than he has already given you.

Mr. O'Brien: You can't tell yet where to find it, your Honor.

The Master: No.

Mr. O'Brien: Well, I note an exception.

Q. Is there a report or record or recommendation in the office of the secretary that would indicate the basis of those settlements?

The Master: Same ruling.

Q. Is there a report or record in the office of the secretary that has collated figures showing the actual rates charged by the general insurance companies, and the rate charged by the fire insurance trustees?

The Master: Same ruling.

18245 Mr. O'Brien: Exception.

Q. Will you turn to sundry debtors and give us the fire losses for last year, the year 1918, that were suffered by the complainant company, and the payments made by the trustees to the complainant company, covering such losses?

Mr. Ransom: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Does the complainant company carry any liability insurance outside the mutual agreement or arrangement?

18246 A. Yes. The complainant company carries elevator liability insurance and steam boiler liability insurance and plate glass, with outside companies.

Q. Can you state or will you state, when the practice was begun of contributing to the Mutual Aid Society employees—the Employees' Mutual Aid Society?

A. No, sir. They have been contributing to that society years before I came with the company.

Q. Is that based upon certain percentages, or—

A. The direct contribution of the company is one dollar to the society for every—

The Master: Wait a minute. You had this mutual Aid Society constitution and by-laws or something marked in evidence.

The Witness: You did, sir.

Mr. Ransom: They are all marked.

The Master: Objection sustained.

Mr. O'Brien: Exception. Of course, if I knew what was in the Master's mind, I know some of it from the expressions already made—

The Master: I give it to you as fast as I can.

Mr. O'Brien: The record is full of a lot of it, I am sure; but if I knew, I would know how 18248
far to go with this witness. If we knew that Mr. Carter was going on the stand, that Mr. Consolidated Gas Company, in the personality of some man under oath, was going on the stand here to justify the substantial expenditures that are embodied in operating expenses, then we would desist with this witness; but where he comes on the stand and through him these books are put in evidence, the books seem to be some evidence as to these expenditures, it strikes me it is perfectly proper cross-examination to ask this witness about expenditures. Of course if it is outside
18249
his particular domain, he can quickly say so, and we will pass on to something else, but he may be a participant in it, your Honor, he may know of it, and after this case is closed, if we fail to ask him, it will be said, "Why, you had our chief accountant on the stand and these books were put in evidence, and that was the time for you to go into those matters and find out the details, the circumstances, under which they were made."

The Master: If anything of that kind occurs before I decide this case I am going to recall any witness that may be necessary.

Mr. O'Brien: I can't understand for the life of me how you can justify the expenditure of thousands of dollars for mutual aid society.

The Master: Well, I shall justify it on the ground that a corporation of this character, engaged in the work in which it is engaged, properly contributes to a mutual benefit aid society to keep up the morale of the employees and to get the best operating results. That is the theory on which I shall sustain it, unless you can show me some mighty good legal proposition to the
18251 contrary.

Mr. O'Brien: We are in a rate case now, your Honor.

The Master: I thought we had been in a rate case since the 15th of July. I am talking about a rate case.

Mr. O'Brien: And they have no more right to charge that up than to charge the fees of Ransom, Whitman & Ottinger.

The Master: I don't know whether they are not entitled to charge up the fees of Whitman, Ottinger & Ransom, but I am not ruling on that
18252 just now.

Mr. O'Brien: Well, my question to the witness I believe was—

The Master: Do you mean to say that because the State attempts to choke these people to death, as they claim, that they haven't a right to employ counsel to protect them and charge that to operating expenses?

Mr. O'Brien: Not in this case.

The Master: Well, we will see about that later on, but I am quite sure you will never get me to change my view that a contribution to the

mutual aid society of employees is not a proper expense in the operation and actual cost of making the gas.

Mr. O'Brien: I think the question was when they began.

The Master: He said long before he came with the company. I let him answer that.

Q. Has the stipend contributed by the complainant company to this mutual aid society been the same each year?

Mr. Ransom: Objected to.

The Master: Objection sustained. 18254

Mr. O'Brien: Exception.

Q. How much was it increased in 1917, over the previous year?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. How much was it increased in the year 1918 over 1917?

The Master: Same ruling, and the Master announces that no further questions of that kind need be asked, because there will be the same ruling. I will not take any further testimony as to the amounts, because the books are the best way of getting after it. 18255

Mr. O'Brien: Well, your Honor, don't you see that we—if we find that they did change the amounts, this gives information that is not in the books, presumably?

The Master: Yes.

Mr. O'Brien: And that is why—

The Master (interrupting): You have had a month.

Mr. O'Brien: Why, if they unloaded it on to 1918—

The Master: You have had a month, if not more, to get that very data from the books so that you could be prepared—

Mr. O'Brien (interrupting): I am not required, under the theory of a rate case, to take a month or two months or three months, to find out anything, your Honor, and that is where the false assumption is running through this case. We are not compelled to spend thousands of dollars to go out, simply because they come in on a sworn statement of Mr. Carter that they are losing $14,000 a day. That is only a pleading.

18257

The Master: Why was the application made to me to suspend the cross-examination of this witness and the witness Teele? For what purpose?

Mr. O'Brien: I don't recall.

The Master: I do.

Mr. O'Brien (continuing): Any application to suspend the examination.

The Master: I do. I recall that very well. Day after day the argument was made to me that counsel for the defendant could not proceed to cross-examine Mr. Brundage or Mr. Teele until they had had an opportunity to examine the statements and the books and the records presented, and it was for that reason that the cross-examination was postponed so that counsel, through their experts, could analyze Mr. Teele's figures and analyze these books and come back here when these witnesses were recalled to ask them precisely the direct questions attacking the accuracy of their statements, either oral or in these books. Now, if that has not been done I am very sorry about it, but this objection will be sustained, and no further questions will be allowed.

18258

Mr. O'Brien: Well, I want to say with regard to the application, you will recall that when Mr. Brundage was on the stand we asked for some time to go over the books preliminary to making our objection?

The Master: Yes.

Mr. O'Brien: That was done. Then Mr. Teele was brought on the stand and the record indicates that a recess for some time was given him to go out and strengthen his position by making further tests, and that led to an adjournment for several days. But so far as the obligations and 18260
the burden of proof go, I contend we have a right to ask the witness any of these questions I am asking him. We are not supposed to have experts, notwithstanding the application may have been made to you, and notwithstanding the fact that the men are working on those books—we have a right to ask the witness here to explain these various matters, because he ought to know about them, your Honor. He ought to know about it, he ought to know something more than the mere fact that these books are on the shelves of the company, and that they are the general books of account. 18261

The Master: The objection is sustained, and an exception allowed.

Q. Do you have anything to do with the employment of men?

A. Only the employees of the accounting department.

Q. You have complete charge of that?

A. I do.

Q. What has been the turn-over there from year to year, in the last ten years?

18262 Henry H. Brundage, Cross.

A. That is a very difficult question to answer, Counselor. In a broad way I should say that up to 1914, the turn-over was very small, most of our employees were retained year after year. When the war broke out, our ordinary tranquility ceased.

Q. Which war?

A. The war that began in 1914, on the other side and which led up to our getting into the war in 1917; and from along in the fall of 1916 and continually up to the present time, our turn-over has been very heavy. I testified to that, and gave you the num-
18263 ber of men who were turned over in my preliminary examination.

Q. How is it today, do you need any bookkeepers?

A. We have lost three men within a month.

Q. Do you mean to say you have trouble getting men to come in there and serve you now in the bookkeeping department?

A. I mean to say that men come to us and do not stay very long, and the turn-over keeps going on and has continued up to the present time.

Q. Well, have you any difficulty in getting employees now?

18264 A. We have had some difficulty in getting employees. I could not say that we have had as much in the last three or four months as we had along last winter.

Q. Have you sent any notices at all to the United States Employment Bureau or the State Industrial Employment Bureau that you have places for men there, or women?

Mr. Ransom: Objection.

The Master: Objection sustained.

Mr. O'Brien: Exception.

The Master: You might just as well ask him

to name every newspaper in New York and then go to Brooklyn and then throughout the United States.

Mr. O'Brien: Your Honor, there are men in this city who are looking for jobs and ready to take them from the Consolidated Gas Company. That is why the question was asked.

The Master: Are there any boys looking for jobs?

Mr. O'Brien: Yes, I suppose there are.

The Master: Well, just send me one, will you? 18266

Mr. O'Brien: I will put him in touch with the men in this county and who will give them the names of help that will stick.

Q. Mr. Brundage, will you state how the losses of the restaurant are divided up among the affiliated companies?

A. I will.

The Master: Well, state it.

The Witness: The losses on the restaurant are apportioned amongst the companies in the general office building quarterly, based upon the number of employees of each company in the building. 18267

The Master: It seems to me I had that before.

The Witness: You did, sir. I testified to it.

Mr. O'Brien: We were into part of that before, your Honor.

The Master: You do not want to go into it again.

Mr. O'Brien: We were checked up and limited in all of that examination.

The Master: You are going to be limited more than ever now.

Mr. O'Brien: We will make the record—pile it up.

Q. Has there been any year where the restaurant showed a profit?

The Master: Objection sustained. The books will speak for themselves.

Mr. O'Brien: I am among other things testing this witness's memory, your Honor, and his knowledge of these books.

18269 The Master: Objection sustained.

Q. Can you tell me who Alice Foote MacDougal is?

The Master: Objection sustained.

Q. Don't you know the work that she is engaged in?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Have you ever given this account any particular attention, Mr. Brundage?

The Master: Objection sustained.

Mr. O'Brien: Exception.

18270 Q. Has the question ever come up since they started that restaurant as to whether they ought to discontinue it?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Has the company, through its officers or the heads of departments, ever taken up the question as to how much profit or loss there was in the restaurant?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. In the account covering the operation of the

restaurant is there rent charged up as one of the expenses of running that restaurant?

A. There is charged in the cost of operating the restaurant the share of the expenses of maintaining the building applicable to the restaurant.

By the Master,

Q. No, but is the rent charged, for the space occupied?

A. We do not charge rent that way, your Honor, as I have previously testified.

Q. You charge a tenant who uses the space downstairs? 18272

A. We do.

Q. Do you charge this restaurant for the space it uses?

A. Not that way.

Q. That is what I am getting at.

A. Rent is charged to any outside company, your Honor.

Q. What?

A. Rent is charged to any outside company in accordance with leases which I understand have been submitted in court.

Q. Is there rent charged to this restaurant enterprise as if it were an outside company? 18273

A. No.

Q. All the restaurant is charged with is its percentage of the operation of the building?

A. Right. Is that perfectly clear, your Honor?

Q. Yes.

A. Just the same as we charge any of our own departments.

Q. What?

A. The same as we charge any of our own departments, for their share.

Q. Mr. O'Brien wanted to make it clear on the

record that when your restaurant shows a certain loss per year you have not figured in that the loss of the revenue that you might get for the renting of that space, if you rented it out?

A. That is it.

The Master: That is what he wanted to get at. Next question.

By Mr. O'Brien:

Q. Are the expenses of running this restaurant charged up in the operating expenses of the company for the years 1918 and 1919 in this case?

18275 A. Our share is; yes, sir.

Q. By the way, how far have you assisted Mr. Teele in getting up his accountancy exhibit in this case?

A. I have not conferred with Mr. Teele about his exhibits, nor have I ever seen them.

The Master: Then your answer is zero—nothing?

The Witness: Nothing whatever.

Q. Do you discuss with him any of the accounts of this company?

The Master: Objection sustained. He says he did not discuss it with him.

18276 Mr. O'Brien: We are speaking about the Teele exhibits. His first answer was confined to Teele's exhibit.

The Master: Did you discuss anything with him?

The Witness: Yes, I discussed one subject with Mr. Teele. He came down in the first part of the examination and asked me about our methods of handling our tax accounts. That is the first time. He has been on the seventeenth floor and otherwise I have not conferred with him and have never seen the exhibits.

Q. You have not been called upon to explain his account or discussed any other account except the matter of the taxes?

A. The matter of the tax account he wanted to know about.

Q. Have you got the papers or records that Mr. Teele used for the purpose of testing the accuracy of the general books of account?

A. I have not.

Q. Did you collate the figures that he used for the purpose of making tests?

A. I instructed Mr. Davidson to give Mr. Teele 18278
everything that he wanted.

The Master: No, you did not answer the question. Did you get any figures up for Mr. Teele, for his information?

The Witness: No, I did not, none whatever.

Q. Did you turn over to Mr. Davidson any figures to be used by Mr. Teele?

A. None whatever.

Q. Did you turn over to Mr. Davidson any books, papers, reports, recommendations or resolutions to be used by Mr. Teele in the matter of his accountancy work, or by Mr. Teele's assistants?

A. Did I? 18279

Q. Yes, sir.

A. I did not.

Q. Do you know who did select the underlying papers and the books of original entry that were used by Mr. Teele in making the tests which he says he made to test the accuracy of the general books of account?

Mr. Ransom: I object to the question. There is nothing to indicate that anybody selected it except Mr. Teele.

The Master: I am going to let the witness an-

swer the question, as the quickest way to dispose of it.

A. Why, Mr. Teele determined what he wanted, your Honor, and in accordance with our original arrangement called up Mr. Davidson to get it for him, and I told Mr. Davidson to get him anything he wanted. Those were general instructions.

Q. Did you give Mr. Davidson any specific instructions as to how he was to co-operate with Mr. Teele?

A. Nothing further than that general instruction, to get him everything he wanted.

18281 Q. Mr. Davidson has been working with Mr. Teele for a long time, has he not?

A. He has.

Q. And has he been taking instructions as to his work and his co-operation with Mr. Teele from Mr. Carter or somebody else?

A. He has been reporting to me each day as to what he is doing. Now, if Mr. Carter has called anyone to do anything special I do not know of it.

Q. There are many papers he would have to have, would he not, from other offices than yours, to make up these exhibits?

Mr. Ransom: Objected to.

18282 The Master: Objection sustained. I think that cross-examination has gone far enough

Q. Have you gone over Mr. Teele's exhibit to verify his figures?

A. I have not.

Q. Have you ever seen—

A. (Interposing.) I have not seen his exhibits.

Q. Have you ever seen the schedules that Mr. Teele presented in this case which have been received in evidence?

A. I have not; no, sir.

Q. I will ask you the same questions I have already

asked you with reference to Mr. Teele and Mr. Davidson in connection with the schedules that Mr. Teele has gotten together for the year 1919. Your answers would be the same?

A. The same thing. I have not seen them, sir.

Q. Then you cannot say whether Mr. Teele's figures are correct, as shown in his exhibits, covering operating receipts and expenditures for the years 1918 and 1919?

Mr. Ransom: Objected to.

The Master: Objection sustained. This witness is not here to characterize Mr. Teele's work. 18284
He cannot tell me what he thinks of it.

Mr. O'Brien: That is all right, your Honor.

The Master: What do you mean, it is all right?

Mr. O'Brien: I say concede that, then the point still holds good.

The Master: Objection sustained. It is not proper cross-examination.

Mr. O'Brien: Well, I cannot say, "Mr. Operating Ledger, how long have you been in existence and when did you set up these figures in this column?" I have got to talk to Mr. Brundage and ask him what these things mean, otherwise 18285
you could not have any cross-examination at all, your Honor.

The Master: I have made my ruling.

Mr. O'Brien: I admit it is improper cross-examination to ask him whether he has been over these figures.

The Master: I let you ask him that. I am not going to let you ask whether he agrees with the conclusions reached by Mr. Teele.

Q. Has Mr. Davidson made any report to you as to the accuracy of Mr. Teele's work?

The Master: Objection sustained on the same ground.

Mr. O'Brien: Exception.

Q. Mr. Brundage, could you say whether or not the payments to Shearman & Sterling during the year 1918 have been included in the operating expenses of the company as set up in this action?

A. Any payments made to Shearman & Sterling for legal services would be charged to operating expenses.

The Master: Would there be other payments
18287 made to them?

The Witness: There might have been.

The Master: What kind?

The Witness: There is a payment made to them for the use of a part of their office by some of our gas people, that I recall. That was charged to—yes that was charged in operating expenses, too.

The Master: Everything included in their payments would be an operating expense?

The Witness: Yes, sir.

Q. And that irrespective of whether it was work done in connection with this case?

18288 A. There has been no payment to Shearman & Sterling for work on this case.

Q. Would you say that the payment made of $12,500, or that of $1,875, in the early part of 1918, was not made in connection with the rate case?

A. I will so say, yes.

Q. Do you know whether the payment made to J. E. Allison & Company of $2,197.31, shown on page 77 of the treasurer's book, was charged up to the operating expenses of the year 1918?

A. A payment was made to Allison & Company and it was prorated amongst certain of the com-

panies interested, our share being included in operating expenses.

The Master: What was that for?

The Witness: It was for preparing a rather elaborate brief, your Honor.

The Master: To whom?

The Witness: To the Public Service Commission for the First District.

Q. Would the payment made or shown in the treasurer's book of this $2,197.31 and $1,410.02, on pages 77 and 98, respectively, indicate the complainant's payment on its own account to the Allison Company? 18290

A. The cash book would not so show. The voucher would show it.

Q. Will you explain the payments made to the National Coal & Coke Company during the year 1918?

A. I should say that most of them were for cartage. The vouchers themselves would show.

Q. But you made the statement when Mr. Chambers had you under examination that the company did not make any payments to the National Coal & Coke Company?

A. I made no such statement. I made the statement that they did not buy any coke from the National Coal & Coke Company. 18291

Q. The complainant company did use the National Coal & Coke Company for cartage?

A. Yes, they have done some carting for the gas company.

Q. And these payments have passed through your hands and have been approved by you?

A. No, not through my hands personally.

Q. Well, I mean—

A. They passed through the accounting department, were classified and paid.

Q. Isn't your name on every bill that is paid?

A. No, sir.

Q. Don't you have to O. K. every payment that is made?

Mr. Ransom: I object to that as fully covered.

The Master: Objection sustained. It has been exhaustively covered and the witness just said he did not. As a matter of fact some of the gas transferred vouchers showed that they were not approved by him.

Mr. O'Brien: I am talking about the general practice and routine. The witness understands what I am asking.

18293 The Master: So do I. Objection sustained.

Q. Can you tell me why payment was made to the Northern Union Gas Company in the amount of $4,249.21, as shown by page 84 of the treasurer's book?

A. I cannot.

Q. Do you buy any gas from the Northern Union Company?

A. We do not.

Q. Under any conditions or circumstances?

A. Never recall such an item.

Q. You cannot think of any occasion explaining the payment made by the complainant to that com-

18294 pany?

The Master: Objection sustained upon the ground that the voucher will indicate the details.

Q. Can you explain any of the payments made by the complainant company in 1918, to the New York Edison Company?

The Master: Objection sustained upon the same ground. The voucher will explain it.

Mr. O'Brien: Your Honor is assuming that.

The Master: You should have called attention to the fact that you were going to ask these questions and had the vouchers here, and then the witness could have answered them. I sustain the objection under the circumstances.

Q. Mr. Brundage, I am going to ask you to take this payment to the New York Mutual Gas Company of $59,177.86, as shown on page 105 of the treasurer's book, and trace it through the several books to its source?

Mr. Ransom: Objected to.

The Master: The Master declines to permit the witness to do it.

Mr. O'Brien: Your Honor, I want to give you some idea of the way in which the books are kept.

The Master: No. If there is any particular 18296
feature about that account that you want to call my attention to, whether it is in the treasurer's book, in the sundry debtors' book, or somewhere else, you can call attention to the point you have in mind.

Mr. O'Brien: I note an exception to your Honor's ruling. I submit that the witness is here to show us, to justify these books, he is here to justify their system of keeping books and to show that it is a good system.

The Master: I have sustained the objection on the ground, among others, that the cross-examination in that respect has gone far enough. 18297

Mr. O'Brien: When your Honor made the statement a minute ago did you have in mind that it is incumbent upon me to come in and state to your Honor, "I have found this kind of a mistake, I would like to ask the witness about it"?

The Master: No, it is incumbent upon you to come into court and say, "Mr. Witness, I show you this book. Do you see that figure? Yes. Do you see this figure in the treasurer's book? Yes. Isn't that an error, isn't that a variance?" That is the way to point out that the books are

inaccurate or improperly kept. It is perfectly simple to bring out your point, just as you did on this rent on the restaurant. "Is rent included? No." There you have made your point as a basis for argument. Mr. Chambers brought out some item of $100,000, I have forgotten just what it was, but he undoubtedly has a memorandum of it, and he has a basis for argument. You have brought out the fact that there are mutual aid payments, you have a basis for argument. I am not going to let a witness go roaming through
18299 books for an hour at a time to trace an item.

Q. Speaking about the Allison Company, Mr. Brundage, was that for work done in connection with this rate case?

A. No, sir.

Q. Can you explain the various payments made during the year 1908, to the Municipal Lighting Company?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: He said that the company was out of business.

The Master: I don't care what he said. I
18300 say if you have anything to attack on that you should have had the voucher here so the witness could talk intelligently.

Mr. O'Brien: Are we not going to expect that he can tell us something from his own knowledge and memory?

The Master: Certainly not. It is perfectly ridiculous to assume that this witness, the head of the accounting department of this company, likewise generally in charge of the Astoria Company, having 18,000 vouchers and more going through his department in the year 1918, should

undertake to say that he recalls particular payments to particular concerns at particular times, or at any time.

Mr. O'Brien: I have asked him a general question. Your Honor is reverting to other questions. I am asking him now as to payments to the Municipal Lighting Company, general payments, what they are based upon.

The Master: Objection sustained for the same reason. If these vouchers have not been put at your disposal there would have been some justification for it, but they are at your disposal. 18302

Mr. O'Brien: I am going to have something to say about has been placed at our disposal. I will give you that at tomorrow's session.

The Master: I am going to finish Mr. Teele before I hear any complaints about what you get.

Mr. O'Brien: I have a few affidavits on the question of frank disclosure. I will say right here, and say it with emphasis, that there is an effort being made to conceal records, to thwart our work, to make it a long and a difficult job for us in this case, to go in there and get at important matters in this case. Now, with your 18303 Honor's permission, instead of producing affidavits I am going to put my men on the stand and give the other side a chance to cross-examine them, to make the record clear on that point.

The Master: After we get through with Mr. Brundage and Mr. Teele.

Mr. O'Brien: They go in there, and they hand out piecemeal this thing and that, when we want records that bear upon vital matters in this case we are not getting them, and our course is being retarded. Now, there isn't any frank disclosure, there has not been through the witness.

Mr. Ransom: This defendants' men do not even come up there. Mr. Sangster and Prof. Bemis go up for a few minutes, but they don't go up there like the representatives of the other defendants.

Q. Will you explain the payments made during the year 1918 as to the general nature of the same, made to the New York Edison Company and the United Electric Light & Power Company, by the complainant, during the years 1918 and 1919?

Mr. Ransom: Objected to.

18305 The Master: Objection sustained upon the same ground.

Q. Were these payments simply for electric current?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Were they for some other purpose?

The Master: Same ruling.

Q. Were loans made by the complainant company to the Edison Company and the United Electric Light & Power Company?

Mr. Ransom: Objected to.

The Master: Same ruling.

18306 Mr. O'Brien: Exception.

Q. Mr. Brundage, I will ask you now whether every payment made during the period referred to in this treasurer's book now before me, by the complainant company, has been entered up in this book?

A. Absolutely.

Q. Has any money been paid out in the shape of a credit of any kind to any person or corporation which is not recorded in the treasurer's book?

A. No, sir.

By the Master:

Q. Mr. Brundage, do you mean to say that credits

having been made in favor of concerns with whom you have been dealing, which are reflected in a bill paid, that they appear on this book?

A. I mean to say that there are no disbursements made to any creditor of any kind which is not reflected on the disbursement side of that cash book.

Q. Suppose the credit appears as a credit memorandum of some kind, credit voucher which is taken in on a settlement between the parties, so that your check here is more than it might have been if you had not issued that credit in favor of the other side, that would not show in this book? 18308

A. We are mixing two things now. If a creditor gives a credit memorandum, then we pay him, our payment would be less than the amount of our bill against him. The net amount would be shown here.

Q. But the credit as a separate item wouldn't appear?

A. As a separate item, no. You understand that these disbursements may and frequently do include 10 or 15 or 20 sundry creditors' payments.

Q. Take one of these gas transferred items. You send them a credit in their favor, a memorandum in their favor?

A. Yes. 18309

Q. You are in substance paying them some money, are you not?

A. We are.

Q. That does not appear in here?

A. Yes, I showed you that on a particular item that came up, where the question was raised as to an item marked December, 1917, and put through our sundry creditors in January, 1918.

Q. Did you draw a check on it?

A. Yes, sir.

Q. Just as if you got a bill from them?

A. Yes, sir.

By Mr. O'Brien:

Q. You are speaking now of a transaction between the complainant company and one of the affiliated companies where there was a credit to them and some debits also, and the whole thing was covered by one check, because there was a balance due from the complainant company to that affiliated company?

The Master: Objection sustained.

Q. You used the word "creditors" in your answer to me about the payments made by the company. I will ask you now whether any payments of money
18311 to any person or corporation, so far as you know, have ever been made that are not contained in the treasurer's book?

Mr. Ransom: Objected to as fully covered.

The Master: I will allow it once more.

A. Certainly not; every disbursement is here.

The Master: Mr. O'Brien is trying to cover by his question everybody, whether you call him a creditor or not.

A. Every payment made is recorded on the disbursement side of that cash book.

Q. Do the affiliated companies all carry the same kind of a book?

18312 The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Does the Astoria Light, Heat & Power Company carry the same kind of a book, kept in the same manner?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Does the New Amsterdam Gas Company keep books of account similar to the complainant?

The Master: Same ruling.

Mr. O'Brien: I call your Honor's attention to the fact that the testimony is that the complain-

ant company owns 90 per cent of the stock of the New Amsterdam Company.

The Master: I have not forgotten it.

Q. Will you tell me under what name the account is kept which embraces the deposits, or rather the moneys impounded during the last rate case which were not returned to consumers?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained. It is already in the record.

Mr. O'Brien: Your Honor, we didn't get very far with that. 18314

The Master: You have that in the record.

Mr. O'Brien: But you had it with Mr. Teele, and not with Mr. Brundage.

The Master: You have got that in the record. Objection sustained.

Q. Will you state whether or not, Mr. Brundage, at the present time or at any time during the current year there has been any effort made by the complainant company to find out the names and residences of the consumers to whom that fund belongs?

Mr. Ransom: Objected to.

The Master: Objection sustained as not proper cross-examination. 18315

Mr. O'Brien: Exception.

Q. What rate of interest is that fund bearing at the present time and where is it invested?

The Master: Objection sustained.

Mr. O'Brien: Exception. Your Honor, I take it that you made that ruling because you assume that it is something that is shown in the books.

The Master: I think I will save time by not attempting to discuss my ruling.

Q. Mr. Brundage, can you explain the payments

made by the New York Edison Company to the complainant company of $702,942.31, as evidenced on the cash book on November 21, 1918?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Your Honor, I submit I have a right to ask that question. There is no cross reference in the cash book or the treasurer's book to any other books of account. It stands here as unexplained on the books, and the witness is here on the stand. I submit that it is perfectly

18317 proper. Here is the ledger folio column, and it has no cross reference of any kind.

The Master: I don't care about the book.

Q. Does that represent dividends paid by the Edison Company to the complainant company, or is it a loan made by the Edison Company to the complainant company?

Mr. Ransom: Objection.

The Master: Same ruling.

Q. Mr. Brundage, have you had occasion to go over officially the books of the New York Edison Company?

The Master: Same ruling.

18318 Mr. O'Brien: Exception.

Q. Have you had access to their books in connection with your work for the complainant company?

Mr. Ransom: Same objection.

The Master: Same ruling.

Q. Who verifies the payments of the transactions of a financial character as to their accuracy between the complainant company and the New York Edison Company?

Mr. Ransom: Objection.

The Master: Same ruling.

Q. Is that generally done by Mr. Carter's office, or is it done by yourself?

Mr. Ransom: Objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Mr. Brundage, is there an invoice presented with the vouchers for transferred gas by the affiliated companies?

Mr. Ransom: Same objection.

The Master: Same ruling, sufficiently covered.

Mr. O'Brien: Mr. Ransom spoke about a certain memorandum accompanying a voucher, your Honor, but the invoices are what I am referring to—something that gives details as to 18320 the transaction.

The Master: Objection sustained.

Q. Did you turn over to representatives of the defendant personally, or was it Mr. Davidson turned over the vouchers covering transferred gas?

A. Mr. Davidson must have gotten them out, as I did not.

Q. Do you know whether any statement was made by Mr. Davidson when he turned over these vouchers to the defendant's representatives, to the effect that the transactions therein described were all wiped out and cancelled at the end of the year and new figures substituted? 18321

Mr. Ransom: Objection.

A. I do not.

Q. Did Mr. Davidson say anything to you about these vouchers?

A. Nothing whatever.

Q. Did you give him any instructions when you turned over these vouchers to them covering transferred gas, to explain to the representatives of the various defendants, that these accounts kept during the year were all wiped out at the end of the year and new figures substituted?

A. I did not give them to Mr. Davidson.

The Master: And you did not tell him that, either?

The Witness: I did not say a word about it, your Honor.

The Master: I should have sustained an objection, but you have said it three or four times.

Q. Did you have anything to do with preparing the data used by Mr. Teele on Schedule 7 of his exhibit covering certain rent deductions?

Mr. Ransom: Objection.

The Master: Objection sustained. The wit-

18323 ness has said he had nothing to do with any item except taxes.

Mr. O'Brien: Your Honor, the witness has not concluded himself by saying aye or nay to the question I have just asked.

The Master: I have concluded him by my ruling.

Mr. O'Brien: I am assuming he is answering my questions categorically.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Do you carry anywhere in any book or record a statement of rent deductions?

18324 The Master: What?

Q. Such as are set up on Schedule 7 of the Teele Exhibit?

The Master: Objection sustained.

Q. Mr. Brundage, when is a bill put in the category of uncollectibles by the accountancy department?

Mr. Ransom: Objected to.

The Master: Objection overruled.

A. All final bills two months old are written off of the current accounts into uncollectibles.

Q. Does that mark the end of any effort to collect them?

A. It does not.

The Master: Objection sustained.

Q. What effort then follows?

The Master: Objection sustained.

Mr. O'Brien: Exception. Your Honor, I will suspend at this time my cross-examination of the witness. I ask the privilege of recalling him at some later date.

The Master: No, I will entertain an application, just as I said before, but I won't grant any such application now.

Mr. O'Brien: At this time I move to strike from the record these general books of account 18326
on the grounds I stated when they were first received in evidence, and on the further ground, your Honor, that it now appears from the testimony of the witness on cross-examination that he hasn't any particular knowledge of these accounts, that he has been unable to show their accuracy, that the books of account appear, so far as he is concerned, to have been only brought before his notice in a general way as the books of the company; that he hasn't shown any knowledge of the various accounts; he has not been able to explain the items, the method of keeping books, the books of account have been 18327
shown to have many cross-reference columns without any references to contain dates; that they are absolutely misleading as to the entry of items to be unbalanced in many ways, to be based, to a large extent upon extraneous matters. I refer in that connection particularly to the transferred gas account, which the witness states —as to items concerning which the witness has stated have been entered upon these books in the accountancy department simply upon the O. K. of somebody in Mr. Carter's office. On the fur-

ther ground that the books have been built apparently to deceive and to mislead and to confuse; that the system of cross-references is entirely confusing and chaotic. On the further ground that certain books that contain vital entries are loose-leaf, the sundry debtors' blotters are loose-leaf books, are typewritten, in which pages at any time might be inserted if the company saw fit to do it. And I respectfully submit that the witness has shown that the books are not reliable, they are not accurate, and that he
18329 himself was not and is not in a position to attest their reliability and their accuracy.

The Master: Motion denied, exception allowed. Do you want to ask him something, Mr. Chambers?

Mr. Chambers: Yes.

CROSS-EXAMINATION BY MR. CHAMBERS:

Q. Mr. Brundage, are you acquainted with the 63d Street property of the Consolidated Gas Company?

A. East 63d Street, in a general way, counselor.

Q. East 63d.

A. In a general way.

Q. You haven't any other properties on 63d Street,
18330 have you?

A. No.

Q. Well, then, it is East 63d Street; it is over opposite Blackwells Island, isn't it, somewhere over there?

A. Yes.

Q. Do you know that you have a holder over there, the Consolidated Gas Company has a holder?

A. Yes, we have a three million cubic feet holder there.

Q. And the Standard has two holders, do you remember that?

A. The Standard has two five million cubic feet holders.

Q. And then the Standard across the street has a pumping station?

A. Yes; we call it governor and valve house.

Q. Now, in your books of account I call your attention to a charge in 1918 for labor and material at this station, "Works and station structure at 63d Street." What labor and material could this possibly be, when you have no property there except the holder?

A. Is it a construction charge you are referring 18332
to, Counselor?

Q. I don't know. We don't know what it is.

A. Let me see the account (examining book).

Mr. Ransom: Referring now to Exhibit 205.

Mr. Chambers: Yes. Well, this is from the books, I take it, ledger folio 206.

The Master: Objection sustained. Why don't you look at the ledger?

Mr. Chambers: Well, this is an extract from tht ledger.

The Master: I am going to hold the same ruling against you that I did against Mr. O'Brien. If you have anything you want to call this wit- 18333
ness's attention to, you ought to know where it is and get the book.

Mr. Chambers: I do; folio 606 of the operating ledger for 1918.

The Master: Well, get that if you want to as a question about it.

Q. I call your attention to page 606 of Complainant's Exhibit 190. You find the charge there, do you?

A. I find a total charge for repairs to structures at 63rd Street station of $111.14.

Q. What structures do they relate to?

A. Structures at the 63rd Street station.

Q. You have not any station, you just told me?

A. I told you we had a three million foot holder there.

Q. That is not a station.

The Master: Do you call that a holder station?

The Witness: A holder station, your Honor.

The Master: Objection sustained.

Mr. Chambers: Why, if the Master please?

18335 The Master: I will make the same ruling I did with respect to Mr. O'Brien.

Q. Anyway, there is a charge for repairs?

A. $111.14.

Q. You do not know what it is for, do you?

A. For repairs to structures at that point.

Q. Is it for repairs to the holder?

A. On that property. It is not repairs to the holder, no.

Q. What is it repairs to?

A. I am unable to say. It might be fences surrounding the property.

Q. I show you folio 615, a charge for repairs there

18336 to furnaces and boiler. You have not any furnaces and boiler, have you?

A. At that station?

Q. At that station, yes.

A. Let me look at this account; maybe I can refresh my memory for a minute.

Q. I know you have not, so you may as well say so.

A. I don't know.

Q. I know you have not. All you have is a holder.

A. I find on page 615 charges for repairs to furnaces and boilers and accessories amounting during the year to $311.89.

By the Master:

Q. At the 63rd Street holder station?

A. At the East 63rd Street holder station.

Q. How do you explain that if you have not got any furnaces?

Mr. Chambers: Or boilers?

Mr. Ransom: It says accessories.

A. I am not going to explain it from the record that is before us.

Q. What record do you need?

A. The vouchers and pay rolls will show just what it is for. I find a number of charges here, your 18338
Honor, from the Chapman Valve people and from an engineering company.

Mr. Chambers: Those are separate and distinct from this, are they not?

Q. In order to answer Mr. Chambers' questions, you would have to have reference to the original pay rolls?

A. The original pay rolls and sundry creditors' invoices, all of which are matters of record.

The Master: I will sustain objection to any further questions on that.

By Mr. Chambers:

Q. On this same record, folio 653, you have an- 18339
other charge for the 63rd Street station.

The Master: Objection sustained, if that is meant as a question.

Q. What is that for?

The Master: Objection sustained.

Q. Folio 661 you have still another charge for this 63rd Street station, for labor and material.

The Master: I suppose your question means what is that for?

Mr. Chambers: Miscellaneous equipment. Yes, what is that for?

The Master: Same ruling.

Q. At folio 661 you have another charge. What is that for?

The Master: Same ruling. There is no necessity of calling attention to anything more; it is the same ruling.

Q. The total charges for the 63rd Street station, folio 675, seems to be $7,820.98, made up of $3,017.02, of these items of labor for boiler and engine house, valvemen, miscellaneous, coal and coke. Do you know what those are for?

18341 The Master: Same ruling.

Q. You do not use any coal there, do you, at that holder?

The Master: Same ruling.

Mr. Ransom: That has been identically covered already.

Mr. Chambers: Exception.

Mr. Ransom: The record shows it all. They pay part of the expenses of operation.

Q. Do you have anything to do with apportioning the expenses up there at that pumping station which is owned by the Standard?

A. The expenses of operating that pumping sta-

18342 tion are divided between the Consolidated and the Standard, ten-thirteenths being carried by the Standard and three-thirteenths by the Consolidated.

Q. You mean three-thirteenths of what?

A. Of the expenses.

Q. Who does that? Who fixes that?

A. That is based on the relative capacity of the holders.

Q. Of the three holders?

A. Yes, sir; right.

By the Master:

Q. And if the Consolidated Company spends any

money for fixing any of the plant around there they charge ten-thirteenths to the Standard?

A. They do.

Q. And if the Standard spends any money for fixing any of the plant around there they charge three-thirteenths to the Consolidated?

A. Yes, sir.

Q. So it is quite probable that some of these expenses were expenses incurred in fixing valves and other things, of which only three-thirteenths was ultimately charged to the Consolidated?

A. Correct, your Honor. 18344

By Mr. Chambers:

Q. You said you did not know?

A. I declined to testify specifically without having the vouchers and pay rolls before me.

Q. We want the fact, not what is quite probable. Do you know as a matter of fact?

A. I can testify as a fact, as I did in answer to the Master's question, that three-thirteenths is charged to the Consolidated and ten-thirteenths to the Standard.

The Master: Of all the costs of operating the station?

The Witness: All the costs of operating the station. 18345

Q. The pumping station, though, is owned and operated by the Standard?

A. It is.

Q. I will ask you once more who apportions that expense?

A. That apportionment was made, I should say, at least eight or ten years ago. Just who conferred in respect of it I am unable to say. I know that Vice president Carter instructed me as to what the arrangement was to be.

Q. That is where you got your information from?

A. I did, sir.

Q. Did he give you those fractions as to how the expense should be apportioned?

A. Yes.

Q. What information do you get, in order to make this entry, from the Standard?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. What information do you have upon which you make the entry of these expenses in the books?

18347 The Master: Objection sustained.

Mr. Chambers: Exception.

The Master: You find some of the same charges in 1919?

Mr. Chambers: Yes.

The Master: And the same questions are asked as to 1919?

Mr. Chambers: Yes.

The Master: Same ruling.

Mr. Chambers: As to all of them.

The Master: Same ruling.

Mr. Chambers: Here is one a little different. At folio 521 there is a charge for repairing a

18348 steam engine at 63d Street.

The Master: Same ruling.

Mr. Chambers: Exception. I wanted to ask him what that is for.

The Master: Yes, it would be the same ruling.

Mr. Chambers: The rest of the questions seem to be substantially the same.

The Master: It will be the same ruling.

Mr. Chambers: The total for that is $5,157.18.

Q. So far as certain expenses that you charge to other companies are concerned you carry that, you say, under the heading "Sundry Debtors"?

A. All items charged to other companies are charged in sundry debtors; yes, sir.

Q. Your department does the bookkeeping for the other companies as to that?

The Master: Objection sustained. It is sufficiently covered.

Mr. Chambers: We have not covered that specifically.

The Master: I think it is sufficiently covered.

Mr. Chambers: Exception.

Q. When you make an entry like this found on page 230 of your sundry debtors blotter for 1918, 18350
"Astoria Light, Heat & Power Company: Your share of the expenses of maintaining the pay roll department at 130 East 15th Street for the month of December, 1918," who determines what the share of the Astoria Light, Heat & Power Company shall be?

A. The superintendent of that department in conference with the comptroller of the company.

Q. What is the basis of that? How are we to determine the basis of that charge?

A. That is apportioned based upon the superintendent's knowledge of the number of hours of labor employed in order to handle the Astoria pay rolls.

Q. It is not to be found anywhere in your books 18351
of account, any of these records, is it?

A. As to this apportionment?

Q. Yes.

A. Why, certainly.

Q. Where will we find them?

A. In the charge ticket on which this entry is based.

Q. The charge ticket?

A. Yes, sir.

Q. No. 258?

The Master: No, that is the entry number, just point it out to Mr. Chambers.

A. In the supporting data filed at the sundry debtors' desk you will find the original charge tickets

reciting how much of this total expense is to be charged to the Astoria company for this work during December.

Q. Yes, it shows the total expense and then the basis of the computation?

A. I believe it will, yes.

Q. Are you sure about that?

A. No.

Q. Is it not a fact that you will not find any information there except just the charge?

A. You will find the charge ticket and it will show
18353 you just how much to charge them.

Q. Just like this is a transcript of them, is it?

A. Probably a transcript, yes.

Q. So our accountants cannot find out from any information there just how you make up the charge?

A. Well, I know that that arrangement is made as a result of conferences between the superintendent of that department—

The Master: No, Mr. Chambers wants to know if there is any way his accountants can figure that themselves.

The Witness: I think, your Honor, we can undoubtedly furnish them the information as to
18354 how it was done.

Q. From the books, unless you furnish them some oral information or data, they cannot find it from these books?

A. Unless it is on the charge ticket there.

Q. What you do is to sit down and send the Astoria Light Heat and Power Company a bill?

A. Yes, but it must be based upon something. It was not grabbed out of the air, you know.

Q. What is it based on? That is what I want to know—what records of the company?

A. It is based on the superintendent's knowledge

of the time spent by his department making up the pay rolls.

Q. And that information is conveyed orally?

A. No, there is some memorandum which is in the sundry debtors' files.

Q. It is all filed, is it?

A. It is all filed; yes, sir; and made a matter of record.

Q. In there he states the details?

A. He does.

Q. Do you know?

A. I do not. 18356

Q. Have you examined those?

A. I have not seen them in some time.

Q. Where do you get your basis for this?

A. From the charge ticket made out by the superintendent of the Hollerith department.

Q. All of the charges in here, or many of them, are in the same category as this, are they not? You will find hundreds and thousands of them.

A. There is an original record, Counselor, for every entry in that book.

Q. Take the Standard Gas Light Company, "For use of Scow No. 6," who determines that charge?

A. That comes to us from the engineering department, who have jurisdiction over the company's scows. 18357

Q. Here is one on page 232, and it is all full. It says, "New Amsterdam Gas Company: Your share of the overhead expense of the Street Department for the month of December, 1918," superintendence so much, conveyors so much, emergency service so much, maintenance so much, other expense so much, amounting to $4,046. Where is the basis of that charge?

A. There is an elaborate tabulation on that each month, on file at the sundry debtors' desk, accounting department, showing just where it is arrived at.

Mr. Ransom: The defendants' representatives have had those.

Q. Take the item for "Gas Logic"?

The Master. For what?

Mr. Chambers: Gas Logic.

The Master: What is that a newspaper?

Q. What is Gas Logic, a newspaper?

A. A newspaper, a monthly periodical.

Q. Published by the Consolidated Gas Company?

A. It is.

Q. In this sundry debtors' book here we find
18359 many charges to other companies for Gas Logic. On what is that based?

A. On the number of copies delivered to them.

Q. Who fixes the charge per copy? Do you mean you charge each of those other companies for so much a copy?

A. We do, for the number of copies we deliver to them.

By the Master:

Q. How much a copy?

A. It depends upon the cost. The cost of that publication comes to us in the shape of a bill and the bill is for a certain number of copies. Then we deter-
18360 mine the cost per copy and multiply by the number of copies that each company gets.

Q. It is published from month to month?

A. Yes.

By Mr. Chambers:

Q. Who makes that computation?

A. Why, it is just a computation.

Q. Who makes the computation?

A. One of the accounting department employees.

Q. You get the cost of the issue?

A. Yes, sir.

Q. Do you charge in the Livingston expense at all in your bill of expense?

A. Not in these accounts.

Q. But you do charge in some of that expense?

A. The expenses of the company's office are prorated amongst the other companies.

Q. Here is another one of the Standard Gas Light Company, "Your share of expenses incurred in connection with the Society of Gas Engineers, during the month of January, 1919."

A. Yes.

Q. Who determines that?

A. I do, based on the membership in the society by companies. 18362

Q. Why should you keep the books for the Standard Gas Light Company for their share of the expenses in this engineering society?

A. We are not keeping their books. Certain expenses are incurred by us for the Engineering Society, and at the end of the month or the quarter we collate all those expenses and pro rate them amongst the interested companies, based on their membership in the society.

Q. You keep a record of their share?

The Master: Objection sustained.

Q. You send them a bill?

The Master: Objection sustained. 18363

Q. Now, the expense of this "Gas Logic" go into your operating expenses, except that part of it which you get out of the other companies?

A. Yes, sir.

Q. Included in the expense of "Gas Logic" are certain expenses of Livingston, various items?

A. Yes, sir.

Q. That is to say, Livingston takes care of this "Gas Logic," and he makes certain expenditures and gives you a list of them?

A. He gives us a bill for them.

Q. A bill for them?

A. Yes.

Q. Now, he does not give you, does he, any data showing what they are for?

A. Yes, the bill would show what the charges were for.

Q. He does not give you any voucher for them?

A. He gives us his approval on the face of the bill.

Q. He gives you a bill like this, "Wrappers, photographs, receipts, photos," in a lump sum?

Mr. Ransom: I object to the statement of
18365 counsel. There is nothing to indicate that. The voucher has not been brought here, although many vouchers have been called for. The paper from which counsel is reading is simply some summary made up evidently by Mr. Frank.

The Master: I will allow it.

A. Bills of the nature you have described have been received for these petty disbursements.

Q. From Mr. Livingston?

A. From Mr. Livingston.

Q. He makes up a bill and gives it to you in a lump sum, but does not attach any vouchers to it?

A. No, for those disbursements made by his office.

18366 Q. You take his word for the expenditures?

A. We do not, no.

Q. Who does?

A. These bills are submitted to the executive officers of the company, and usually come to me approved by the president.

Q. You never have any vouchers for money spent by Livingston, all you have is a bill?

A. For moneys spent by him out of his fund, but for an item such as this here, which is the big item, his bill from the printing house, that comes to us supported by evidence that a certain number of copies

of "Gas Logic" have been received and to whom they have been delivered.

Q. Who determines how many copies these other companies shall have?

The Master: Objection sustained as sufficiently covered.

Mr. Chambers: I do not remember any answer as to that.

The Master: You were sitting back there talking to somebody else.

Mr. Chambers: If it is in the record I do not care to have it again. 18368

Q. In order to find out the money spent for this "Gas Logic," these entries in this operating ledger here, take the ones in red, these are bills out under sundry debtors' bills of other companies?

A. They are.

Q. Take this one right here, $1,370.56, how would we find that? Just tell the Master, will you, how we will find that?

A. The item to which you refer has nothing to do with "Gas Logic" whatever.

Q. Well, let us find one that does? A. $486.60, credited to "Gas Logic" for the month of January. How would we find that in here? 18369

A. You would go right to your sundry debtors.

Q. And page through?

A. Page through.

Q. You would have to page through all of December here?

A. January.

Q. How long do you think it would take you to do that?

The Master: Objection sustained.

Q. Well, it would take a long time, wouldn't it? I want to show—

The Master: I know that because I have seen Mr. Brundage locate one of these things before.

Q. When you located that red ink, that might be charged to several companies?

A. It was charged to several companies.

Q. And if you hunted through January you would finally find an entry, and all it would say would be, "Your share of 'Gas Logic,'" or something of that kind, wouldn't it?

A. No, it would recite the number of copies delivered to them during the month.

18371 Q. That is all?

A. That is all.

Q. Back of that where would you find any other information about that?

A. Back of that is a charge ticket.

Q. With the same information as contained in this sundry debtors?

A. Yes.

Q. And back of that?

A. Back of that is the disbursements made which would make up the total which we are now distributing.

Q. Including Livingston, and so on?

18372 A. Yes, sir.

Q. Attached to each one of these charges to the companies? A. The charge ticket would summarize the items that were to be distributed. It would include the printing bill and these sundry items made by Livingston, aggregating a certain number of dollars, and we show how that was to be apportioned amongst the other companies. That is all shown on the charge tickets.

Q. There is no reference in this sundry debtors blotter anywhere to the charge ticket?

A. Because there is a charge ticket for every item in the sundry debtors blotter.

Q. And how would some one examining this account find out what it was for? Could he find out from any information contained in either the operating ledger or this?

The Master: Objection sustained.

Mr. Chambers: But we cannot.

The Master: You have that in the record.

Mr. Chambers: You are going to say, "Why didn't you examine this?" All we know is that they made a charge.

The Master: It is sufficiently spread on the record. 18374

Q. Is Livingston paid a salary?

A. He is.

Q. A straight salary?

A. Yes.

Q. And that goes into this "Gas Logic" charge, does it?

A. I think that is classified in part to "Gas Logic"; I am not sure about that.

Q. I mean when you charge these other companies does it include the part of his salary devoted to "Gas Logic"?

A. Yes, sir.

Q. Or does it include just the printing, etc.? 18375

A. No, it includes Livingston's salary and all.

Q. Do you do newspaper advertising, a lot of it, for these other companies, running into thousands of dollars?

A. For all the affiliated companies.

Q. You do all the newspaper work for all the other companies?

A. We look after that; yes, sir.

Q. And you keep the books on it?

Mr. Ransom: I object to the question.

A. We do not keep books on it.

18376 Henry H. Brundage, Cross.

Q. You send them a bill, you keep track of the newspaper advertising that is done?

A. All the newspaper business is handled through Livingston's office, and bills come to us properly approved by him and by an executive officer, and those bills are paid by us, and all of that expense is prorated amongst the companies.

Q. And it is entered in your books?

A. It is.

Q. And then billed out to these other companies?

A. Yes, sir.

18377 Q. And then when the money is paid by the other companies you keep track of that?

A. It comes back to us in cash.

Q. In other words, you keep all the books on advertising for these other companies?

Mr. Ransom: I object to the question, because it is an incorrect statement. They get back the money that is laid out.

The Master: Objection sustained.

Mr. Chambers: It takes time to keep the books. That is what I want to get at.

Q. Are you paid anything at all by the other companies for handling the advertising?

18378 Mr. Ransom: I object to the question. It is not a matter of handling advertising. It is a matter of advertising for the gas business, and they charge to the other companies their proportionate share.

Q. All this goes into operating expense?

The Master: Objection overruled.

Mr. Ransom: Otherwise it would be simply a charge against the Consolidated.

The Master: Do you make any charge for the time spent in making the necessary entries?

The Witness: We do not.

Q. Does Livingston charge the other companies for the time he spends in placing these advertisements for them, say for the Standard?

Mr. Ransom: I object to the question. There is nothing to indicate that he places any advertising for them.

Mr. Chambers: He said he does. Pick up any newspaper and you will see where the Standard is advertising, "Cook by Gas," or something of that kind.

Q. Does not Livingston place those ads?

A. Livingston's office looks after all of the adver- 18380
tising.

Q. Is the whole of the expense of his office paid by the Consolidated?

A. It is, and it is all prorated amongst the other companies, the whole account you have before you is prorated amongst the other companies.

Q. Who does that prorating as to advertisements?

A. I do.

Q. How do you charge up the Standard with their share of the advertising?

A. That is based on the cubic feet of sales of the preceding year.

Q. And that is so with the other companies? 18381

A. Yes, sir.

Q. Where is that computation found, where will anybody find it?

A. You will find all these items in great detail in the sundry debtors file supporting the blotter you have in your hand.

Q. There is no reference in here to that?

A. None whatever, because every item in that blotter is supported by original data.

Q. How would anybody find that out?

A. Go to the sundry debtors file.

Q. Speaking of the operating ledger, and there is no entry in the sundry debtors, and no entry in the journal, how would we find it? Ask somebody?

A. The sundry debtors file contains them all, and they are subject to your examination, and your people have seen hundreds of them to my personal knowledge.

Q. You are certain of that?

A. Absolutely.

Mr. Ransom: You have them tabulated right before you now.

18383 Mr. Chambers: This?

Mr. Ransom: Yes.

Mr. Chambers: I wish you could see that.

Mr. Ransom: Mr. Frank has before him tabulations made up from that.

Q. So, you say additional information will be found in these files?

The Master: Objection sustained.

Mr. Chambers: All we find there is a transcript of this.

Mr. Ransom: You find full data.

The Master: Objection sustained.

Q. Now, you have a bureau, or some kind of a

18384 department that is known as "Claims and Arrears"?

A. We have.

Q. And you run that in your sundry debtors blotter, do you?

A. We run through the sundry debtors blotter such portion of the expenses of maintaining that department as is applicable to other companies.

Q. That is a department that is devoted to collecting bad debts for all the companies?

A. Yes.

Q. Who is is the head of that department?

A. Mr. Almberg.

Q. And the Consolidated runs that department entirely?

A. Yes, sir.

Q. And he and his assistants go out and collect bad debts for the Standard and the other companies?

A. Those people do that; yes, sir.

Q. Who determines what share of that department the Standard and the other companies shall pay?

A. I do.

Q. On what basis?

A. The actual collectors on the district are charged to the other companies, based upon the actual number 18386
of hours of work they perform for the other companies. All the other expenses of the department are apportioned amongst the companies based on the cubic feet of gas of the preceding year.

Q. You render bills to the other companies for that?

A. We do.

Q. You keep the books as to that?

A. We keep that expense and bill the other companies for their share.

Q. Is it your department that spends the time keeping the books on that?

A. The accounting department keeps this record of 18387
the expenses of maintaining the claims and arrears department.

Q. Do you make any charge for your salary and the salary of your assistants in keeping these records, to the other companies?

A. We do not.

Q. Now, you maintain, or the Consolidated Company maintains what is known as a promotion department, is that right?

A. No, it is not true. We carry an account called promotion expense.

Q. It is carried under promotion expense, is it?

A. It is.

Q. Now, you render bills to the other companies for superintendence under that?

A. Yes.

Q. Well, what kind of superintendence is that, and do not your bills read, "For cost of maintaining promotion department"?

A. There is no specific department under promotion department.

Q. I ask you, don't your bills so read?

18389 A. I believe they do. I think that wording is used in the bills. Doing promotion work for account of the affiliated gas companies.

Q. Well, then, there is no such department then as indicated on the bills?

A. No, sir.

Q. What is that superintendence in that? I see it amounts to $3,981 here, just superintendence for one month, December, 1917?

A. You are looking at a charge, Counsellor, which flows from the account I have before me known as the promotion expense applicable to the gas appliance department.

18390 Q. Yes.

A. The superintendence item there is the superintendent and clerks assigned to the gas appliance department.

Q. Now, you make a charge to each one of the companies for the superintendent's services?

A. We do.

Q. Who determines how much of his time he devotes to the Consolidated, to the Standard, to the Mutual, to the New Amsterdam, the Central Union, the Northern Union, the Westchester and the East River Companies?

A. The expense of that entire work you have before you is apportioned among the affiliated gas companies based on the number of meters on the district at the end of the preceding year.

Q. Why do you do that?

A. Because that was believed to be the fairest basis of apportioning those charges.

Q. It is an arbitrary way of fixing it?

Mr. Ransom: Objection.

The Master: Objection sustained.

Q. How would we find out, and where would we find the information to check that? 18392

A. In the sundry debtors files you will find a record indicating the number of meters on the district of each of the companies as of the end of the preceding year, from which the computation can be verified.

Q. Can you show me one? Will you show me one of those?

A. I will not.

Q. Why?

A. Because they are on file in the sundry debtors, the original there.

Q. You said the sundry debtors blotter would show it? 18393

The Master: He said the sundry debtors file

Q. Oh, you could not find it in the sundry debtors blotter?

A. You will find where the entry is made there charging the other companies, and the supporting data is in the file.

Q. But you won't find that reference to the sundry debtors file in this sundry debtors blotter?

A. I have already said that every item in that blotter is supported by underlying data which is available for your examination.

Q. Who is it determines—which of the defendants has used these sundry debtors files? You said you were aware that we had been using them?

A. I am aware that you have been using them. Our sundry debtors bookkeeper has reported to me several times—

Q. (Interrupting.) Of your own knowledge, do you know that any of the defendants have ever been sold or had access to this sundry debtors file, of your own knowledge, and I would like to know who it is?

A. Well, I get that information from three sources.

18395 Q. Of your own knowledge, not what you have heard other people say. That is hearsay?

A. Don't point your finger at me. That is unnecessary.

Q. Well, I will keep my hands in my pocket, but I want you to confine your answer not to hearsay information, but your own knowledge on the subject?

A. Yes. I have seen Mr. Frank or one of his assistants in our accounting department, at our sundry debtors desk, talking to the man who keeps those files in respect of the supporting data that he wanted. I cannot testify that I saw him take them away, but

18396 he has been down there in respect of that matter.

Q. Did you ever see Mr. Frank or his assistant examining the sundry debtors files?

A. No. I have seen him down there talking with the sundry debtors bookkeeper.

Mr. Ransom: Do you deny they have been examined by Mr. Frank or his assistant?

Mr. Chambers: Yes, I do.

Mr. Ransom: Well, get Mr. Frank to deny that under oath, if he will.

Mr. Chambers: Call him. Now, it turns out that the witness did not know that we ever examined them.

Mr. Ransom: If you will let him testify he will. You have the results of it right at your elbow looking at it now.

Q. Now, under this same promotion expenses—we find an entry in this sundry debtors blotter which reads, in speaking of a charge against the Standard, "For Commissions paid Salesmen of the Consolidated Gas Company for appliance orders obtained by them and executed by you," and running to the Standard Company, of over a thousand dollars. Now, what is that?

The Master: Objection sustained. 18398

Q. Well, where will the information about that be found?

The Master: Objection sustained.

Mr. Chambers: How are we going to check that, if the Master please?

The Master: I decline to discuss my ruling.

Q. You keep the books of those salesmen who sell appliances for the other companies?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. What is the basis of the charge to the Standard for that expense?

A. That amount is billed to the Standard as representing the commissions paid by us to canvassers for obtaining business that went on the Standard Gas Light Company's lines. 18399

The Master: You mean the exact amount that you paid?

The Witness: Yes.

The Master: The contracts that you turned over to them?

The Witness: Yes, sir.

The Master: That they executed?

The Witness: Our canvassers got the business, your Honor.

The Master: In other words if they sold a hundred appliances for the Standard and you paid them one hundred times two cents, you billed the hundred times two cents to the Standard?

The Witness: Yes, sir.

Q. And you keep the books—

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Is that the same way you made the charge to
18401 the Mutual, the New Amsterdam, the Central Union, the Westchester and the East River?

A. Same basis, yes, sir.

Q. All these charges?

A. That is business gotten for their account.

Q. You keep the books and render them bills?

The Master: Objection sustained.

Mr. Chambers: I don't see why your Honor objects to me showing that he keeps the books.

The Master: Because it is 20 minutes of 5, and it is apparent from the books themselves that he keeps the books.

Mr. Ransom: He just keeps entries to see
18402 that this company get its money back.

Mr. Chambers: Oh, no.

The Master: Perfectly stupid. Of course he keeps a record, whether it is called a book or something else, upon which they make a charge.

Mr. Chambers: Just for that month it is $10,000.

Q. The rent that you charge these other companies for this so-called promotion department, how is that determined?

A. That is an item of rent paid by us for an appliance display room that we maintain at—I think it

was Madison Avenue and 42nd Street, as I recall it.

The Master: How it is prorated?

The Witness: On the same basis as the other, your Honor; that is, the number of meters on the district at the end of the year. All of that whole promotion expense is divided that way.

Q. Now, the items "incidentals," how is that apportioned?

A. The same way.

Q. To these other companies. What do you mean by incidentals there? 18404

A. The account was known in the ledger here as miscellaneous; items not specifically assignable to the other subdivisions.

Q. You have one under incidentals here, haven't you? You better look again. You have an item here incidentals, haven't you, in your operating ledger?

A. Yes, we have.

Q. And also one miscellaneous?

A. Yes.

Q. So incidentals cannot be an item under miscellaneous?

A. Not very well.

Q. Well, what is that incidentals? Can you explain it? 18405

A. Stationery, gas used—

The Master: You are reading from the ledger, aren't you, Mr. Brundage?

The Witness: I am, sir.

The Master: It is carried into the column?

The Witness: Yes, sir.

The Master: Objection sustained.

Q. You apportion that in the same way?

A. We do.

Q. The number of meters?

A. The whole account—

The Master: Objection sustained.

Q. You run an account known as, "Miscellaneous General Expense?"

A. We do.

Q. Under that account you make the charges in red in your operating ledger of the bills you render to other companies?

A. Yes.

Q. Under that heading you make a charge as shown
18407 by this sundry debtors blotter to the other companies, of expenses of publicity department for certain months, say the month of January, 1918. How do you apportion that expense among the different companies?

A. Based on the sales the preceding year.

Q. And who makes that determination?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Then you charge to them their share of the expenses incurred in connection with the Society of Gas Engineers of New York City?

A. Yes, sir.

18408 Q. How is that determined—their share?

A. Based on the number of members in the society of each of the affiliated companies.

Q. Who makes that apportionment?

The Master: Objection sustained. It is merely a matter of computation.

Q. Where do you get your information from for that, from the companies?

The Master: Objection sustained.

Q. In your blotter is there any indication about that, showing the number of members?

The Master: Same ruling.

Q. The charge for inspecting transmitter and indicator to the other companies, how is that determined?

A. Based on the sales the preceding year.

Q. In the meetings you make a charge or meeting fees, you have here, do you?

A. Charge to other companies?

Q. Yes.

A. I do not recall such an item, Counselor.

Q. It is a charge of your own, not to the other companies, for meeting fees?

A. No part of that account is billed to other companies. 18410

Q. Who audits those meeting fees?

A. The voucher is prepared by whoever serves as secretary of the meeting at which the fees are paid.

Q. Is there a voucher attached?

A. Certainly.

Q. And what information do you get about it—say like when part of it is for cigars? Do you get a sub-voucher for that?

A. We do not charge any cigars to fees.

Q. You do for gas accountants society meeting?

A. Yes.

Q. You pay that?

A. Yes. 18411

Q. What society is that, that you pay the expense of?

A. That is the gas accountants' society.

Q. Of your company?

A. Of all the companies.

Q. And the Consolidated pays all the expense of that?

A. They do.

Q. Including cigars, and so forth?

A. And apportion it amongst the interested companies, based on the membership in the society.

Q. Oh, you do apportion that?

A. We do.

Mr. Chambers: These all have to be thrown out, then. They are all in as operating expenses cigars and everything. Dinners, drinks, and so forth. Cigarettes, too, are in.

Mr. Ransom: All this I expect you got from the underlying data that you have not seen.

Mr. Chambers: We got all this from the two books here, and the vouchers.

The Witness: Your Honor, would it be proper
18413 for me to say at this time that every expense we incur for the other companies we bill to them through the routine and method that he is now cross-examining about.

Q. All right, show me where you bill to the other companies the expense of the Gas Accountants Society for January, 1918, will you, please?

Q. Yes, sir. At the end of December, 1918, you will find where the year's expenses are all rounded up and billed, based on the membership.

Q. What is that billed under—what account?

A. It is billed to all the companies and credited—

Q. (Interposing.) I mean where would it be in
18414 the operating ledger?

A. I find in Ledger B, 1919, folio 877, where an item charged to the other companies aggregating $597.75, representing the expenses of the Gas Accountants Society for the year 1918, was billed

The Master: Was that entered in the 1918 ledger?

The Witness: No, in the 1919.

The Master: Why was it carried over?

The Witness: Because probably due to the rush it could not be gotten in, and being a small item I put it in this year.

Mr. Chambers: It is $597.75.

The Witness: Yes, and it was billed to the other companies.

The Master: As I recall it, the gas company claims an invested capital of seventy million dollars; is that right?

Mr. Chambers: I don't know. They have made the most extraordinary claims, and probably that is one of them.

The Master: In that bill they claim sixty or seventy million; is that right?

Mr. Goetz: Yes. 18416

The Master: On the basis of six per cent they have to get a return of $4,600,000 at least; is that correct?

Mr. Chambers: I do not know anything about their wild or fanciful theories. I know they might claim to get it.

The Master: But they have some invested capital, haven't they?

Mr. Chambers: Probably some. The legislature found thirty million.

The Master: Then let us take that. They have to get $1,800,000 on a six per cent basis.

Mr. Chambers: If your multiplication is right, 18417 yes.

The Master: Is it not right?

Mr. Chambers: Thirty million at six per cent, yes.

The Master: They say they are losing money on the manufacture of gas.

Mr. Chambers: I do not believe them, but somebody else may.

The Master: I have got to assume their complaint. So you have got to not alone make up

the deficiency in operation, but you have got to find a profit of maybe two million dollars.

Mr. O'Brien: That is easy. We have not scratched the surface yet. I pointed out $500,000 to you right in the Astoria Works, did I not?

The Master: If you did I lost it.

Mr. O'Brien: You do not want to lose it, your Honor. When you get through we will show you about $500,000 profit here—five million profit. That is why these blind books are kept.

19419 Mr. Chambers: You cannot trace a lot of these items, as we have shown here now.

Mr. O'Brien: Somebody has got to go on the stand and justify all this.

Mr. Chambers: I have shown you this $597 item that is charged in 1919, where it should be charged to 1918.

The Master: Yes, I remember that.

Mr. Chambers: The book is full of red ink. You will not let me go into all these, or I could show you a lot of them.

The Master: No, I am letting you go into them.

18429 The Witness: The total cost of operating the society for the year was $804.31. $597 was billed the other companies and the balance was carried by us.

The Master: So it gets down to $300.

The Witness: Less than $300.

Mr. Chambers: That is only for the meeting of the society; $300.

Q. The Engineers' Society, did you gather that together and charge it to the next year, the expenses of it?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. You have another charge for other societies in addition to the ones we have been talking about, have you?

The Master: I will sustain that objection.

Mr. Chambers: I do not see why I cannot show some more savings.

The Master: You have enough in the records themselves to present any argument you want You have the vouchers, you have the information.

Mr. Chambers: We have not the vouchers for 18422
all of these.

The Master: Yes, but you can bring all these things in in the form of a motion.

Mr. O'Brien: Right on that point I now serve notice on the complainant that when I go into the cross-examination of Mr. Teele I want all the underlying data that he used for the purpose of testing the accuracy of these books.

The Master: All right.

Q. You have an item here in 1918, just as a sample, if your Honor will permit me to show it, of George H. Church, three months' services, $250. Now, the voucher shows nothing about it. Where will we get 18423
any information about that?

A. The company pays Mr. Church a stated sum per annum for services as a consulting expert accountant.

The Master: Does not his bill show that? Does not his voucher show what he does?

The Witness: His bill shows, as I remember, services for the quarter ending, so many dollars.

The Master: Does not his bill show what business he is in?

The Witness: I am not sure, sir, whether it is rendered on one of his billheads showing his title or on one of our billheads. It being a regular charge, I guess it is on one of our billheads.

Mr. Chambers: It does not show anything, it just says, "Three months' services."

Mr. Ransom: Church & McCullough have been talked about in this case for three months.

The Master: That is the same Church & McCullough?

The Witness: It is; yes, sir.

18425 Mr. Ransom: If the accountants were employed they would have heard of Mr. Church.

Q. You have a charge here of $550 for January, 1918, 11 annual memberships in the Merchants Association of New York. Does that mean that the Consolidated Gas Company has 11 memberships in that?

A. Certain of the officers of the Consolidated Gas Company.

Q. Are members of that association?

A. Yes, sir.

Q. And the Consolidated pay 11 memberships?

A. Yes, sir.

18426 Q. That is what that charge means?

A. It does.

Q. You charge to gas operating expense?

A. We do.

Q. What is the charge of $100 to the Proudfoot Commercial Agency?

The Master: Objection sustained.

Mr. Chambers: I have not finished my question.

The Master: I don't care.

Mr. Chambers: The voucher does show anything.

The Master: Yes, it does, it shows on its face what it is.

Q. You have one here, Farmers' Loan & Trust Company, $2,000, or services registering stock. What stock is that?

The Master: Objection sustained.

Mr. Chambers: How are we going to know what stock it is? I can't possibly see how we can determine this case without some light on that.

The Master: Objection sustained.

Q. Is it the stock of the Standard, or the New Amsterdam, or this company? It is charged to operat- 18428
ing expense.

The Master: Who is the stock registrar for the Consolidated?

Mr. Chambers: I don't know. This is the Farmers' Loan & Trust Company.

The Master: Suppose you find out.

Mr. Chambers: I except, if your Honor will not allow us to show. We don't know what it is. It is $2,000, and there is a whole string of them here. This just for a month too, that I am speaking about.

The Master: Is the Farmers' Loan & Trust Company your registrar? 18429

The Witness: They are.

Mr. Chambers: Of course that would be an operating expense—

The Master: I don't care for the purposes of my ruling whether it is or is not. My ruling is based on the fact that I could see at once that it is a monthly charge for acting as registrar, and I asked Mr. Brundage the question to make sure. There isn't any question in the world about it.

Mr. Chambers: Maybe that company is registrar for the Standard. You might ask him that.

The Master: Oh, yes, they may be registrar for the United States Steel Company.

Mr. Chambers: That might be Standard stock.

The Master: Why in the world would the Consolidated be paying them as registrar for the Standard?

Mr. Chambers: They own 99 per cent of it.

The Master: Yes, but they keep different books.

18431 Mr. Chambers: It might be the Astoria Company, which they own and control. It might be the Edison Company.

The Master: Let us get on to something else.

Q. Now, this charge here for the restaurant, $136.47—

The Master: Objection sustained.

Q. Stockholders' meetings—of the Consolidated?

The Master: Objection sustained.

Mr. Chambers: It does not show or what stockholders' meeting it is.

The Master: Objection sustained.

Q. Now, the charge to Bradstreets—is that a sub-
18432 scription of the Consolidated Gas Company?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Here is a charge of $384.10 to the United Electric Light & Power Company for which there is no voucher of any kind. Do you know for what that is for?

A. There is no case where there is no voucher of any kind.

Q. You say there is a voucher for that?

A. I do absolutely.

Q. You have a charge under this same heading,

"Miscellaneous general expense," "Publicity expenditures" again for Livingston. How are those apportioned?

The Master: Objection sustained.

Q. You have a charge here, "Supervision of electrical apparatus"?

A. We have.

Q. Do you know what that is?

A. I do.

Q. What is it?

Q. It is payments made to an electrican who looks after our various electrical apparatus and the in- 18434
terior telephone service.

By the Master:

Q. That is charged against various companies?

A. No.

Q. Well, it is a part of the operation of the building?

A. We carry that.

Q. As part of the operation of the building?

A. No, he looks after electrical apparatus which connects what the engineers call the telemetric gauges running from various offices of the engineering department, and he also looks after what we know as interior telephones, lying up the central office with 18435
several points around the city.

By Mr. Chambers:

Q. As to all the allied companies or your own?

A. No, our own.

Q. Just the Consolidated?

A. Yes, sir.

Q. Not the Astoria either?

A. I believe not.

Q. You have charged that to other companies. How did you apportion that?

A. Well, if we did I have lost personal knowledge

of it. I find the account, your Honor, and I see that there are small credits representing bills charged to other companies. They seem to run about eighteen dollars a month. That is for their share of the work performed by this electrician.

Q. Who determines his share of the work?

A. That report reaches us monthly in connection with the approval of the bill from the Engineering Department.

Q. In addition to the expenses which I have covered, there is a large portion of your expense in the
18437 operating ledger which is taken care of in the first instance by the Consolidated Gas Company and then billed to these other companies on some basis?

Mr. Ransom: I object to that as incompetent in form.

The Master: I will sustain the objection on the basis of "large."

Mr. Chambers: Strike it out.

The Master: There are items of various kinds, all of which may not have been covered in these questions, where the Consolidated lays out the money in the first instance and then charges it to the other companies?

18438 The Witness: Yes, sir.

Q. And the Consolidated determines how the charge shall be made to the other companies?

A. We do.

Q. Do they have no voice in it, the other companies, or do you just charge them on the basis you pick out?

A. We charge them on the basis that we think fair.

Q. The other parties do not have anything to say about it?

A. Yes, they do. They have said in conference many times as to what the basis of the apportionment shall be.

Q. Then they have something to say about it?

A. They do.

Q. Where is their record of their side of the contention?

A. The fact that the bills are being rendered by us and approved by them.

Q. That shows that they are satisfied with the arrangement?

A. Yes, sir. 18440

Q. Now, you have another account which is called, "General Office Supplies"?

A. G. O. supplies and expenses.

Q. What is that, stationery and the like?

A. G. O. supplies and expenses represent the incidental expense incurred in running the general office.

Q. Do you carry the account for the other companies, for general office supplies and expenses?

A. There is nothing charged against the other companies in that account that I recall. There may be some minor items, but the account represents our expenses of our own general office, car fares, stationery, 18441 telephones, stamps, all that sort of thing.

Q. When you charge that to the other companies, you have some?

A. If we had such a charge we would render it and credit the account.

Q. How would you determine the charge against the other companies?

A. It would depend on what it was.

Q. Do you take care of all their office supplies?

A. We do not. Each one has its own account and its own expense, and makes its own disbursements.

To answer your question intelligently it would be necessary for me to take up the original sundry debtors entry upon which those items were based, $300, $82 and $60.

Q. What is the charge there, "Laboratory, $232?"

A. That portion of the cost of operating the laboratory assignable to other companies.

Q. What is the basis of this charge for office supplies to the other companies?

Mr. Ransom: I object to that. There is no indication of charges for office supplies.

18443 Mr. Chambers: There it is in red.

The Master: Well, take that item that you had, those three items, can you tell what the basis of apportionment was?

The Witness: No, sir.

Q. Now, you have an account "Salaries General Office"?

A. We have.

Q. And you make a charge to the other companies under that title for engineering?

A. I do.

Q. Who determines the basis of that charge to the other companies for the Engineering Department?

18444 Mr. Ransom: Objected to as having been explained at least twice by other witnesses.

The Master: I will allow it.

A. The time billed to other companies represents the actual time of draftsmen in our drafting room while devoted to work for other companies.

Q. Who keeps a record of that?

A. The chief draftsman.

Q. And sends it to you?

A. Monthly.

Q. It is only the services of the chief draftsman?

A. No, it is the service of any draftsman in his employ or under his jurisdiction.

Q. You make no charge to the other companies for the use of the offices, general offices?

A. We do not.

Q. You make no charge for the salary of the general officers?

A. We do not.

Q. Or any of them?

A. We do not.

Q. These are just draftsmen in that engineering department? 18446

A. Right.

Mr Chambers: That is all.

The Master: Col. Hayward, do you have anything?

Mr. Hayward: No.

RE-DIRECT EXAMINATION BY MR. RANSOM:

Q. Mr. Brundage, you were interrogated by Mr. O'Brien relative to Voucher No. 8496, as to certain oil transactions between the Mutual Company and the complainant?

A. I was.

Q. Have you produced such voucher?

A. I have. 18447

Q Is this the voucher referred to, and the book entry concerning which you were interrogated?

A. It is.

Q. Does it relate to gas oil?

A. No, sir.

Q. What then?

A. To drip oil.

Mr. Ransom: Mark it for identification.

Marked Complainant's Exhibit 362 for identification.

Q. Drip oil sold by the Mutual to the 21st Street plant?

A. Yes, sir.

Q. And the price based on the rate paid by the Barrett Company at that time?

A. It was, yes, sir, and the voucher so indicates.

Q. You were interrogated by Mr. O'Brien regarding an item of expenditure of $46 or something like that, United Electric Light & Power Company, Voucher No. 16867?

A. Yes, sir.

Q. Expense of Mr. R. A. Carter and yourself?

A. Yes, sir.

18449 Q. Did you look up that item, and could you tell us what it was?

A. It is for the expenses of Mr. Carter and myself attending a hearing before the State Tax Commission in Albany.

Q. And they were all paid by the representative of the Mutual in the conference?

A. A representative of the United Company was with the party and made the disbursements for all of us and prorated the expense when he got back.

Q. A representative of each company went to Albany for this session of the State Tax Commissioner?

A. Yes, sir; the State Tax Commissioner required

18450 us to be there.

Q. You went up without counsel?

A. Yes, sir.

Q. And the representative of the United paid the bill?

A. Yes, sir.

Q. And prorated the share of the expense of Mr. Carter and yourself?

A. They did.

Q. Reference was made to the situation at the 44th Street plant. When or about when did the City take over in condemnation proceedings part of that property?

A. About 1913.

Q. Has the award as yet been paid?

A. It has not.

Q. And when it is paid it will be handled in the manner which you have described as to the other awards?

A. It will be.

Mr. Ransom: I offer in evidence the report of the Public Service Commission by Abna F. Weber, chief statistician, dated April 15, 1919, relative to operations of the Astoria Light, Heat & Power Company, concerning which and with 18452
the use of which Mr. O'Brien cross-examined the witness.

Mr. Chambers: Objected to as incompetent, irrelevant and immaterial.

Mr. Ransom: Here is a document which is gotten up and published by the Commission, it has been used— the Commission is one of the defendants, and it has been used here, the figures from it, some of them, in cross-examining this witness, and I think we now have a right to offer it all. It is a statement which the Commission prepared, and which the Commission checked.

The Master: No, I won't take this. This is 18453
simply a statement of the comparative results as shown by the reports, and says that the figures given below for 1918 were subject to such corrections as may be found necessary after critical examination of the reports, which will be published in greater detail in the annual report of the Commission.

Mr. Ransom: Well, your Honor, will you state that the annual report was what should have been used?

The Master: I won't express any views on it.

Mr. Ransom: Well, I mean this was used—is prepared by one of the defendants and it is used by another of the defendants in the cross-examination of the witness.

The Master: I won't take it.

Mr. Ransom: Exception. I ask to have it marked for identification.

Marked Complainant's Exhibit 363 for identification.

Q. Mr. Brundage, you were interrogated with respect to certain tunnel men employed in connection
18455 with the maintenance of the Astoria tunnel?

A. I was.

Q. Will you state just what is the fact regarding the way their wage charges are handled?

A. There are a few pump men in connection with operating the Astoria tunnel that as a matter of convenience are carried on the Astoria pay roll, as they report to the Astoria superintendent, and at the end of each month all expenses so paid are charged to the East River Gas Company of Long Island City.

Q. That is, a bill is rendered by the Astoria to the East River Company for these pump men?

A. Monthly.

18456 Q. And those bills are paid?

A. Yes.

Q. And the account is then closed?

A. Yes, sir.

Q. This account is carried in the Astoria books as maintenance of Astoria tunnel?

A. It is.

Re-cross Examination by Mr. O'Brien:

Q. The control of the tunnel is entirely under the employees of the Astoria Company, Mr. Sperling, Mr. Woods and Mr. Lawrence?

A. Yes.

Q. I don't know whether you have been asked the question in a clean-cut way, but I want to ask it of you before closing up your examination, so far as I am concerned—

A. May I go back in answer to that previous question? You say there it is under the control of the various people, which, of course, I have no knowledge as an accounting officer, just how that routine is carried, but I have reason to believe that the New Amsterdam or East River Gas Company's engineer is in frequent conference with engineer Woods as to methods or matters connected with the operation of 18458
both those tunnels, and I have seen them in conference.

Q. Well, you have never seen the notice that is posted over the Bronx end of that tunnel, in the office there?

A. No, I have never been there.

Q. That nobody is to be given admission unless they get an order or permission is granted by Messrs. Woods and Sperling and Lawrence and several others connected with the Astoria?

A. I have never been in the house since the tunnel was completed.

Q. Is there, so far as you know, directly or indi- 18459
rectly, any separate set of general books of account, or some of them, kept by the complainant company that have not been offered in evidence?

A. None whatever, Counsellor, with the exception of those subsidiary books in respect of which I have covered in my testimony. We have brought to this court all of our general books.

Q. And the general ledger?

A. Yes, sir, all of our books of account.

(Witness excused.)

ARTHUR W. TEELE resumed the stand:

DIRECT-EXAMINATION CONTINUED BY MR. RANSOM:

Q. Mr. Teele, have you continued your examination of the books of account of the complainant company with special reference to expenses and revenues during the month of January to August both inclusive of 1919?

A. I have.

Q. And you have completed such an examination of the books of account?

18461 A. I have.

Q. And underlying records for the first eight months of 1919?

A. Yes, sir.

Q. And did you make this examination alone or with the assistance of others?

A. With the assistance of my staff.

Q. Did practically the same staff of assistants who worked with you on the books and records for 1918 and in the preparation of Exhibit 205, assist you in your examination of the books and underlying data for the year 1919?

A. They did.

18462 The Master: Have you prepared a report showing revenues and expenses for the gas business of the Consolidated Gas Company for the eight months ending August 31, 1919?

The Witness: I have.

The Master: And is this the one I show you?

The Witness: It is.

The Master: The witness identified Complainant's Exhibit 355 for identification.

The Witness: I do.

Adjourned to Tuesday, November 11, 1919, at 9:15 o'clock A. M.

Last Complainant's Exhibit 363.

Last Defendants' Exhibit ZZ.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 18463

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 11, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 18464
MR. O'BRIEN, of Counsel for defendant Swann.

ARTHUR W. TEELE resumed the stand.

DIRECT-EXAMINATION CONTINUED BY MR. RANSOM:

Q. In this Exhibit 355 for identification, did you use and show the same classification of revenues and expenses as was set out by you on Exhibit 205? 18465

A. I did.

Q. And did you group the items of revenues and expenses in the same way and order as on No. 205?

A. Yes.

Q. In the reference to ledger folios, and the showing of uniform system of account numbers, you followed the same plan of identification as in Exhibit 205?

A. I did.

Q. And made the same apportionments?

A. Yes.

18466 Arthur W. Teele, Direct.

Q. And have you and your assistants checked the items and figures shown on this Exhibit 355 for identification with the books of the complainant?

A. We have.

Q. And did you also check the ledger and the subsidiary records and vouchers to which the books refer where you found that necessary, in order to show the same details of information as shown on Exhibit 205?

Mr. Chambers: I object to that. I think he ought to show what subsidiary vouchers he

18467 checked.

The Master: He is showing that when he says they are the same. It is a short cut.

A. Yes.

Q. Is this Exhibit 355 for identification a correct summary and tabulation of the revenues and expenses of the gas business of the complainant for the eight months ended August 31, 1919?

The Master: As shown by their books.

Mr. Chambers: I object to that as incompetent, irrelevant and immaterial. That is for the Court to determine. It is self-serving declaration.

18468 The Master: I will take his statement that it is a correct tabulation from the books. That is why I added to it, "as shown by their books."

Mr Chambers: Exception.

Mr. Ransom: I offer in evidence Complainant's Exhibit 355 for identification, entitled, "Revenues and Expenses of the Gas Business of the Consolidated Gas Company for the Eight Months Ended August 31, 1919."

The Master: I will take it over the same objections as were made to Exhibit 205, and allow an exception to all counsel.

Paper received in evidence and marked Complainant's Exhibit 355.

Mr. Ransom: I ask that this paper entitled, "Consolidated Gas Company of New York, Cost of Production and Distribution for 12 Months Ended December 31, 1918," be marked for identification.

Paper marked Complainant's Exhibit 364 for identification.

Q. Mr. Teele, have you with your assistants working under your immediate supervision prepared Exhibit 354, for identification and checked the items and 18470
amounts therein set forth with the books of account and subsidiary records of the complainant company?

A. Yes.

Q. In the first place, does the total amount shown on Exhibit 364 for identification, under the caption, "Cost of Production," agree precisely with the total amount stated as the cost of production on Exhibit 205?

Mr. Chambers: I object to that as irrelevant and immaterial, comparing an exhibit not in evidence with one that is in evidence.

The Master: Objection sustained. You see in that way you are getting 364 in evidence prac- 18471
tically, that is, the substance of it. Go ahead and show how he made that up.

Q. Have you checked the various amounts of money shown in connection with the cost of production and cost of distribution on this Exhibit 364 for identification with Exhibit 205?

Mr. Chambers: I object to that as incompetent and immaterial.

The Master: I will allow that. I will allow him to state that he has checked it.

Mr. Chambers: Exception.

Mr. O'Brien: Will your Honor allow me to examine the witness preliminarily?

The Master: Preliminary to the reception of what?

Mr. O'Brien: Preliminary to receiving 355 in evidence.

The Master: No. The foundation has been laid for offering it in evidence, and I have taken it.

Mr. O'Brien: Do you think the other examination showed sufficiently the manner in which

18473 it was gotten together?

The Master: I have ruled now that I see no necessity for a preliminary examination.

Q. Mr. Teele, is there any difference in the grouping of items of Exhibit 364 for identification and those on Exhibit 205?

Mr. Chambers: Same objection, on the ground he is comparing a paper not in evidence.

The Master: That cannot do any harm here, whether they are different groupings. What you do not want is the figures until you have a chance to object?

A. The classification of expenditures is the same.

18474 Q. That is, the classification of expenses of revenues is the same?

A. Yes, sir.

Q. And is there any difference in the groupings? For example, have you combined in this Exhibit 364 all of the water gas stations of the complainant, instead of setting them forth separately as you did in Exhibit 205?

A. I have; and the coal gas—the expenses of production for coal gas are contained in one item on this exhibit, the cost of manufacture, whereas in the Exhibit 205 they are set out under the classification prescribed by the Public Service Commission.

Q. That is, they are set out in greater detail on Exhibit 205?

A. Yes, sir; but the aggregate figure is identical with that on 205.

Q. Did you with your assistants take the figures as to the amounts of dollars and cents shown in the column headed "Amount" from the company's books?

A. I did.

Mr. Chambers: I object to that.

The Master: That is allowed.

Mr. Chambers: Exception.

Q. From what record or records were the figures 18476
of quantities shown on Exhibit 364 taken by you?

A. From the manufacturing reports signed by the superintendents at the stations.

Q. And the quantities shown on this statement to have been used or to have been recovered, were checked with the quantities shown by these monthly reports?

A. They were.

Mr. O'Brien: Your Honor, it appears now that counsel has seen the error of his ways. I wanted to ask him if the other exhibit is going to be entirely eliminated.

Mr. Ransom: Why, not at all. It is the best 18477
exhibit in this case.

Q. Now, how is what you have termed "price of unit cost" on this Exhibit 364, as to generator coal, generator coke, boiler fuel and boiler coke, ascertained?

A. That is ascertained, the amount showing the cost to the company taken from the operating ledgers, by the quantity of material shown to have been used according to the station reports.

Q. How were the unit prices for water gas tar used ascertained?

A. The price of water gas tar used is the price realized by the company in its sale of water gas tar.

Q. And how was the unit price for crude still residue ascertained?

A. That is the price paid by the company for the purchase of crude still residue.

Mr. Chambers: I object to that unless he confines his answer to what he found on the books. The answers would indicate that he knew what they paid, and what they are paying for their residuals.

18479 The Master: He don't know anything about that except what he sees from the books.

Mr. Ransom: Books and underlying records is all this witness knows.

The Master: He isn't connected with the company, and he does not know anything about what they pay.

Mr. Chambers: He said, "they paid."

The Master: That is only taken from the record, that is all he is testifying to, referring to records and books of the company, not to his own knowledge.

Q. How was the unit price for gas oil and iron
18480 mass ascertained as set forth in this schedule?

A. It is obtained by dividing the total cost to the company as shown by the operating ledger by the total quantity of material used as shown by the station reports.

Q. How was the unit price for water ascertained as shown on this schedule, that is, city water?

A. Obtained by dividing—the unit price is the price charged by the city as taken from the water bills, the rate per thousand.

Q. And how were the unit prices for residuals obtained, as set forth in this schedule?

A. The residuals are prices fixed at the price realized by the company in its sale of residuals.

Q. Now, in the column headed, "Materials per M" —per thousand—have you computed and shown the quantities of material used per thousand cubic feet of gas manufactured?

A. I have.

Q. Did you with your assistants check up various arithmetical calculations to which you have testified?

A. We made them.

Q. You made them?

A. Yes, sir. 18482

Q. From what record did you take the figures as to the water gas mains?

A. From the station reports of 99th Street and 21st Street stations.

Q. From what part did you derive the figures as to purchased and transferred?

A. First, from the final bills with the statement attached received by the Consolidated Company from the companies set forth in this statement, and second, by checking these quantities of gas, cubic feet of gas, with the computation made by myself and staff with regard to the quantity of gas accounted for by the various companies. 18483

Mr. O'Brien: Will the stenographer read that question and answer.

(The question and answer were read.)

Q. By final bills, Mr. Teele, do you mean bills as of the end of each year, bills as of December 31st?

A. I mean the final bills that were rendered to the Consolidated Gas Company by the associated companies after the end of 1918.

Mr. O'Brien: You mean you disregard the monthly bills that were rendered, Mr. Teele, and the records of the books—

Mr. Ransom: I object to the interruption at this time.

The Master: Objection sustained, on the ground that Mr. O'Brien will not be permitted to interrupt the direct-examination.

Mr. O'Brien: We will have to have it out right here, your Honor.

The Master: No we won't. I won't permit any interruptions.

Q. And what do you mean by "statements attached" in connection with those bills?

18485 A. With the final bills rendered to the Consolidated Gas Company for the year 1918, showing the net number of cubic feet of gas delivered to the Consolidated Gas Company, there were attached statements showing the cubic feet received by the Consolidated Gas Company or delivered by the Consolidated Gas Company during the year, and the net number of cubic feet of gas delivered to the Consolidated Gas Company is shown on those statements.

Q. And those were the statements which were not attached to the gas transferred vouchers at the time they were produced in court while Mr. Brundage was under cross-examination?

18486 Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial. He is asking him to say now that some bills he has just described were not some bills that were received in evidence by the Court.

Mr Ransom: If Mr. O'Brien's representative, Mr. Sangster, will ever get those back to the company, we will not have this difficulty.

Q. At the time you saw these vouchers for gas transferred, there had not been attached the statement which accompanied them?

A. Statements were attached to the bills when we examined them.

Mr. Ransom: I again call on counsel for the defendants to return those documents which are part of the company's records and should never have been taken away from the company's office.

Q. The figures then as to gas received, purchased and transferred, you took in the first instance from those vouchers and annexed statements?

A. I did.

Q. And did you check them with the gas unaccounted for records in Mr. Carter's office?

A. Checked it with the computation that was made. 18488

Mr. O'Brien: I object to that as leading, your Honor.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Q. And as a further check, did you and your staff also make up gas stock accounts of the other companies?

A. In my examination of the accounts of the other companies I had prepared for my own use and my own satisfaction gas stock accounts of each company showing the amount of gas on hand as reported in their manufacturing report at the beginning of the year, the amount of gas made during the year and 18489 the amount of gas received from other companies during the year, the amount of gas sold and the amount of gas used, and the amount of gas on hand at the end of the year, and the amount of gas delivered to other companies.

Mr. O'Brien: As shown by these books?

The Witness: As shown by—

Mr. O'Brien: Manufacturing books?

Mr. Ransom: I object to the interruption.

The Master: The objection to the interruption is sustained.

Mr. O'Brien: Well, your Honor, there are a lot of gaps as we go along here, and I would like to have them filled in.

The Master: I cannot help it; I won't permit the interruption.

Mr. O'Brien: It will mean more time to be taken up later on.

The Master: I can't help it: you must not interrupt.

The Witness: And having prepared those statements in the other case, I checked these
18491 figures against the figures of gas delivered as shown by these stock accounts.

Q. And found that they did check?

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial, calling for a conclusion. He is asking him to state whether or not his figures are correct, your Honor: to characterize his own work.

Mr. Ransom: He is an accountant, and that is what an accountant with high qualifications is for.

The Master: Objection overruled.

Q. You found they were in agreement?

18492 A. I did.

Mr. O'Brien: Exception.

The Witness: There were some minor variations.

Q. By what records and from what sources did you verify the rate per thousand cubic feet paid to the New York Mutual, the New Amsterdam Company and the Astoria Light, Heat & Power Company?

A. By dividing the cost to the Consolidated Company as shown by the—

Q. No. By what record did you verify the rate per thousand feet paid to each of these other companies?

A. I am giving it to you. By dividing the cost to the Consolidated Company by the number of cubic feet delivered to the Consolidated Company, arriving at an average cost per thousand cubic feet.

Q. Now, on this Exhibit 364, the last column is headed, "Cost per M cubic feet made"—cost per thousand cubic feet. How was the cost per thousand cubic feet calculated for each of the items shown in the cost of production?

A. The items in the column headed "Amount" were divided by the cubic feet of gas made, total cubic feet of gas made as shown by the manufacturing re- 18494
ports, arriving at the results set down opposite each item.

Q. Having calculated the cost of production per thousand cubic feet of gas made, how did you compute and ascertain the cost per thousand cubic feet of gas sold?

A. By dividing the total cost in the column headed "Amount" by the total number of cubic feet sold.

Q. And in ascertaining the cost of distribution and the various items under Cost of Distribution, did you divide the amount shown under cost of distribution by the number of thousand cubic feet of 18495
gas sold?

A. I did.

Q. And in the same way you arrived at the—

Mr. O'Brien: Just a minute, your Honor. These questions are rolling in here, and I think we ought to have it understood what the terms mean. He is ringing in now the word "sold" in place of the word "transferred."

Mr. Ransom: No.

Mr. O'Brien: He is dealing now with computations that were made after they wiped the

slate. In other words, at the end of the year 1918, where they put in substitute figures, he is now using the word "sold." There was not anything sold in January. These are adjustment figures that he is talking about.

Mr. Ransom: I am not talking about any such thing; I am talking about the gas sold by this company to its consumers—distributed to its consumers, nothing else.

The Master: Proceed.

Mr. O'Brien: For aught he knows there was
18497 not any gas made in the other plant.

Q. Did you in a similar way ascertain the cost per thousand cubic feet for taxes and for renewals and replacements?

Mr. O'Brien: Objected to as incompetent, immaterial and irrelevant, it not having been shown that there is any renewal or replacement, there having been introduced here in evidence no books of any other company and no underlying data of any other company, and no manufacturing books of any of the other companies from whom it is alleged gas was received.

The Master: Objection overruled.

18498 Mr. O'Brien: It is entirely incompetent, your Honor, to have these questions asked. Now, he brings in for the first time taxes, and renewals and replacements, right out of the clear sky.

Mr. Ransom: We have had it all through the case.

The Master: Objection overruled.

Mr. O'Brien: Exception.

A. I did.

Q. From what source did you take the statement of the income of the complainant from the sales of gas?

A. From the operating ledgers.

Q. How did you calculate the income from the sales of gas per thousand cubic feet of gas sold by the complainant?

A. By dividing the total amount charged for the gas sold by the total number of cubic feet sold.

Q. From what books of account did you get the items of revenue shown under the heading "Miscellaneous Operating Revenue"?

A. From the operating ledgers.

Q. And by this calculation which you have described, did you compute what you regard as a profit 18500
or deficit from the gas operations of this complainant per thousand cubic feet of gas sold?

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial, your Honor.

A. I did.

Mr. O'Brien: Just a minute, Mr. Teele. You want to wait until these objections are passed on.

The Master: Do not talk to Mr. Teele. You must address the Master.

Mr. O'Brien: That is about the sixth time that the witness has undertaken to put an answer on the record. 18501

The Master: State your objection.

Mr. O'Brien: I object to the question as incompetent, irrelevant and immaterial, it asking the witness for something more than what he did with these figures.

The Master: Objection overruled.

Mr. O'Brien: Exception. I will ask now that the witness be cautioned to withhold his answer until I at least have the record made of an objection and exception.

The Master: The witness cannot always tell whether you are going to object or not. He assumes he is to answer a question, but, Mr. Teele, if you notice that counsel is going to object, withhold your answer.

The Witness: Mr. Gilbert, I make every effort to give counsel all the time that he possibly wants. I have not tried, contrary to his statement, to interject anything here in advance of his objection.

Mr. O'Brien: Your Honor, when he answers
18503 that question yes or no he is dealing with conclusions; he is dealing with terms that involve a conclusion.

The Master: I am going to take his conclusion subject to cross-examination later on.

Mr. Ransom: I offer in evidence the page 364.

The Master: I am going to take that, subject to all of the objections that were made to Exhibits 205 and 355, and allow an exception to the defendants.

Mr. O'Brien: I now call your Honor's attention to, and not only want to have recorded on
18504 the record the objections which I made to the original Teele exhibit on September 17th, some fifty odd objections, but I want to record the further one that it now appears from the testimony of the witness that a great many of these items here, the figures set opposite them, are based upon records that are extraneous to this case, that are not in evidence, concerning which he has not shown he has made an examination, and which must be produced in evidence here before he could testify as to computations based thereon.

18505

On the further ground that it appears that on a number of vital matters he has taken figures from the office of Mr. Carter, without verification, these papers not being in evidence. Mr. Carter not having as yet testified, it is entirely inadmissible to receive the figures that are based on such extraneous papers.

On the further ground that as to whether items, they are likewise shown to be based upon papers, records, books of original entry, underlying data, that are not yet received in evidence and have not been offered, and which have not 18506
been placed even at the disposal of the representatives of the defendants.

On the further ground, that these figures are as to the item of transferred gas based upon alleged computations that have not got their original sources in any book of record, that have not been brought into court, that are, so far as we can see, contrary to the figures that were recorded in the books that have been received in evidence, contrary to the vouchers that were received monthly; so that here we have expressed a contradiction, and therefore we may not receive such computations here upon gas 18507
bought by the complainant company, gas transferred to the complainant company, as set up in this schedule.

Your Honor, I strongly urge upon you at this time that this paper be not received. It only piles Pelion on Ossa, so far as errors in this case are concerned, and the whole thing will have to be retraced in order to get any conclusion in this case that will be sustained by the higher courts. I feel that it will be a waste of time for the Court and counsel to proceed in

this case if we are going to add to the books which were erroneously received in evidence, to the schedule of the witness Teele in the first instance which was received in evidence, papers such as this which are entirely unsustained by any papers, books, records or documents that have been received in evidence.

The Master: Objection overruled.

By the Master:

Q. Mr. Teele, I see on this Exhibit 364 that your statement is that the books of this company show
18509 a purchase from the Astoria Light, Heat & Power Company of nine billion and odd cubic feet in 1918, and a charge of 62.21 cents, which you say is based upon a charge of 38.47 cents, plus taxes and other items. Do you see that?

A. Yes.

Q. That is the gas made, is it not—sent out from the Astoria plant?

A. That is the gas paid for by the Consolidated Gas Company. Not the gas made by the Astoria Company.

Q. No, sent out.

A. But sent out for account of the Consolidated
18510 Company.

Mr. O'Brien: Just a minute. I am going to object to your Honor's question as incompetent, irrelevant and immaterial, on the ground that the witness does not know what gas was sent out. All he has had to work with or juggle with are figures that have been handed to him. He cannot state what has been sent out; he cannot testify that he has gone over the records of the Astoria Company, the meter records, nor have the witnesses been put on the stand who know that those meters have been correctly main-

tained, whether they are reliable, whether we can depend upon them or whether records have been kept from day to day of the amount of gas that has gone out.

The Master: Objection overruled.

Mr. O'Brien: We are reaching a very vital thing here, your Honor, if you are going to ask the witness whether figures here represent gas sent out. He has not shown anything on which he can predicate a judgment. He has not gone into the Astoria plant; for aught we know in this case he does not know a thing about it. 18512
Certainly he does not know what kind of meters are used there, whether they are differential meters or proportionate meters. He does not know whether they got out of order; he does not know whether the gas was sent from Astoria, was pumped into other companies' holders before it was used by the Consolidated Gas Company's works.

The Master: It is quite apparent you do not know what I am driving at.

Mr. O'Brien: I know what your question means, your Honor.

The Master: It is quite apparent you do not 18513
understand my question.

Mr. O'Brien: Your question was—you asked him whether these figures meant the gas sent out by Astoria. It was a simple statement and it is entirely inadmissible to ask of an accountant.

The Master: Objections overruled.

Q. In this figure do you understand there has been any allowance for—

Mr. O'Brien: Will your Honor please define the figure you are speaking about? We have

a different exhibit from yours. Yours is full of red ink figures, ours is not.

Mr. Ransom: It is the same exhibit.

Q. In this figure—you know the figure I am talking about.

A. The Astoria gas delivered to the Consolidated Company?

Q. Yes, 62.21.

A. Yes.

Q. In this figure has there been allowance for shrinkage in the gas between the gas sent out and
18515 the gas actually delivered to the consumers?

A. There is no allowance in the gas transferred from the delivered to the Consolidated Company, from the Astoria Company, because there is no transmission through mains to lose gas.

Q. I just wanted to make it clear. I see on this Exhibit 364 you figure in the manner that you have described that there is a loss of six and some odd per cent. What did you make that—a loss of 6.11 per cent, is that right—losses due to condensation, and so forth, the percentage 6.11?

A. That is, the total loss to the Consolidated Gas Company?

18516 Q. Yes.

A. Not in the gas delivered from Astoria.

Q. No, that is their general percentage of loss.

A. But between the send-out of the Consolidated Company and its gas sold and used.

Q. It is a loss of 6.11?

A. Yes, sir.

Mr. O'Brien: I object to it as incompetent, irrelevant and immaterial, your Honor.

Q. What I want you to do for me is—

Mr. O'Brien: Will your Honor kindly rule upon my objection?

The Master: Objection overruled.

Mr. O'Brien: Exception.

Q. I want you to give me that figure which you find on the second page, of .3847. Do you get it?

A. Yes.

Q. With an allowance for a loss of 6.11 per cent in the total amount of gas charged for. In other words, that charge of .3847 and cost to the company of .3847 for gas metered and sent out would be higher on the basis of gas sold to customers, making an allowance for the 6.11 per cent of loss, would it not? 18518

A. Well, .3847 plus the other expenses—

Q. (Interposing.) No, leave out all other expenses. I want to get a figure for my own information.

Mr. O'Brien: Well, I am going to object to it, your Honor, as immaterial, irrelevant and incompetent.

The Master: These various attorneys are trying this case according to their own lights and I am trying to decide it according to my own lights—I am trying to reach figures my own way.

Mr. O'Brien: I object to it as incompetent, irrelevant and immaterial, in that you are asking the witness to give you something that is entirely contrary to facts, not based upon facts, and therefore it would not be admissible here. 18519

The Master: Objection overruled.

Q. Do you know what I am trying to get at?

A. The .3847 represents the cost of the gas to the Consolidated Company.

Q. It represents a charge by the Astoria to the Consolidated Company on the basis of nine billion cubic feet, from which they paid six million dollars?

A. Yes, sir.

18520 Arthur W. Teele, Direct.

Q. What I would like to know is if that same six million dollars was paid for nine billion cubic feet less 6.11, giving you a less quantity for the same amount of money?

A. You want to get at the cost of the Astoria Gas delivered by the Consolidated Company to its consumers?

Q. Yes, leaving out of consideration taxes and—

A. That is having to buy 100 cubic feet of gas to deliver 94.89 cubic feet of gas, you want to divide the total cost to the Consolidated Company of 100
18521 cubic feet by the 94.89.

Q. Yes, leaving out taxes, insurance, administration and investment.

Mr. O'Brien: Your Honor, I object to that.

Q. Can you do that for me?

A. Yes.

Mr. O'Brien: You will triplicate the unaccounted for gas.

The Master: Don't you worry about that.

Mr. O'Brien: Does your Honor intend to put it on the record when you get it?

The Master: Yes.

Mr. O'Brien: Then I object to it now.

18522 The Master: Of course you object to it. You object to everything. You don't understand what I am getting at.

Mr. O'Brien: I understand it enough to object. You are trying to work into the figure of the cost of making gas at Astoria the unaccounted for, are you not?

The Master: No, I am not, I am not doing anything of the sort.

A. It is 40.97 cents plus.

Mr. O'Brien: I object and move to have the answer of the witness stricken out upon the

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ground that it is based upon theories not upon facts.

The Master: Motion denied.

Mr. O'Brien: It is based on facts not in the record, based on an idea that means practically triplicating the unaccounted for gas for all the gas turned over by the Astoria Company to the complainant company. In the bills which are submitted, presumably the basis for the figures in the early part of the exhibit they have already taken care of the unaccounted for.

A. (Continued.) That computation is made on 18524
the basis of 38.47 per thousand cubic feet as one hundred per cent, and that the losses on all gas is 6.11 per cent. Therefore the gas delivered out of the gas purchased is 93.89 per cent. Therefore the price paid per thousand cubic feet purchased is 40.97, the cost of a thousand cubic feet delivered.

Mr. O'Brien: I want to ask—

The Master: I will not let you ask the witness a question.

Mr. O'Brien: If you are going to have figures of importance put in the record at this time, I want to take an exception and enter a protest to the attitude of the Court. 18525

The Master: When you state in your statement that the Consolidated Gas Company paid the Astoria Gas Company for a certain amount of gas, you are simply basing it upon what you find in the records of the company.

The Witness: That is all.

By the Master:

Q. You don't know the first thing about it?

Mr. O'Brien: In what company?

The Master: You will not interrupt, Mr. O'Brien.

A. It is disclosed to me by the records of the gas company.

Q. By the Consolidated Gas Company?

A. The Consolidated Gas Company and the reports and records lodged in the office of the Consolidated Gas Company.

Q. Now, you don't know whether that amount of gas was delivered or not, yourself?

A. Personally, no.

Q. You don't know whether it cost the Astoria Company more or less than what they charged the
18527 Consolidated Gas Company, do you?

A. I do know.

Q. You do know that?

A. I do know through my examination of the Astoria accounts, and also through the statement submitted to the Consolidated Company by the Astoria Company.

Q. Only because you have examined the Astoria accounts do you believe you know?

A. That is all.

Q. That is all. Well, now, so far as the Consolidated Gas Company's books are concerned, I am eliminating all information that you got from the
18528 Astoria books for the time being, all you know is that the Consolidated Gas Company's books show that they are charged for a certain amount of gas on a certain basis by the Astoria Company?

A. That is right.

Q. Now, on that basis, taking the calculation that I asked you to make, it would make it 40.97 cents per thousand cubic feet instead of 38.47 cents?

Mr. O'Brien: I object to the question.

A. Yes.

Mr. O'Brien: I submit that the witness has again interrupted with his answer when I was

making an objection. I want to tell the witness that it cannot be done, without my protest. The witness has got to respect me as a member of this court.

The Master: The witness is respecting you, as everybody else is.

Mr. O'Brien: I wanted to make my objection, and he knew I was making an objection.

The Master: What does he care—

Mr. O'Brien: Oh, he don't care much, that is a cinch.

The Master: What does he care whether he 18530
answers the questions before or after?

Mr. O'Brien: I don't care what he cares, and he has got to respect me. I object to it as incompetent, irrelevant and immaterial, and your Honor has engrafted into the record an inquiry here predicated upon facts that are not proven, upon records that are not in evidence, and upon theories that have not been tried out. Your Honor has asked the witness to make a computation that is predicated upon an additional unaccounted for gas of six per cent, whereas it is to be presumed that the corrections made between the registered make and corrected make 18531
in the records of the Astoria Company already take care of the condensation that is referred to when the witness uses a percentage of six per cent, and whereas it is already shown that it is embodied in the cost upon this same sheet, an allowance for unaccounted for gas, because he said that he used the figures that he got from Mr. Carter's office on the question of unaccounted for, so that to a certain extent we will have triplicated the unaccounted for gas on the theory that is embraced in the question asked by your Honor.

The Master: Objection overruled. Answer the question.

Q. (Read by stenographer as follows): "Now, on that basis, taking the calculation that I asked you to make it would make it 40.97 cents per thousand cubic feet instead of 38.47 cents?"

A. That is correct.

Q. Now, on this schedule of cost of distribution where you have set out cost per thousand cubic feet in the last column, is that the cost delivered and sold?

18533 A. Sold.

Q. And that is so all the way down? How about renewals and replacements? Is that based upon the amount sold?

A. Yes.

Q. Your tax item, is that based on the amount sold?

A. Yes.

The Master: Have you anything else, Judge Ransom?

Mr. O'Brien: Your Honor has passed upon the admissibility of this document, have you?

The Master: Yes.

18534 Mr. O'Brien: I thought your Honor's questions were asked preliminary to receiving it.

The Master: No, I did not open my mouth until I had received it in evidence.

Mr. O'Brien: Note my exception to the admissibility of the paper.

Mr. Ransom: I ask to have this statement entitled, "Consolidated Gas Company of New York, Cost of Production and Distribution, Eight Months, ending August 31, 1919," marked for identification.

Paper marked Complainant's Exhibit 365 for identification.

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By Mr. Ransom:

Q. Mr. Teele, did you and your staff, in the manner in which you have previously described, prepare Exhibit 365 for identification?

A. We did.

Q. In the same manner as Exhibit 364?

A. Yes.

Q. You use the same captions and the same groupings?

A. Yes.

Q. And you made the same calculations and the same checks?

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A. Yes.

Q. And is this Exhibit 365 for identification a correct tabulation and summary of the cost of production and distribution for the eight months ending August 31st, 1919, as shown by the books and underlying records of the complainant company?

Mr. Chambers: I object to that as calling for a conclusion and as incompetent, irrelevant and immaterial.

The Master: The same objections as to 364.

Mr. O'Brien: He can ask that question in another way, without asking him whether it is a correct statement from the books.

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The Master: Objection overruled.

Mr. O'Brien: I except to it as incompetent, irrelevant and immaterial, as calling for a conclusion; on the further ground that it assumes many things that are not proven in the case; it assumes the investigation of records that are not in evidence. I object to it further on the ground that it is another instance of the capsule form of putting in testimony, without giving us an examination that will properly lead up to the offer of this paper.

The Master: Objection overruled.

Mr. O'Brien: Exception.

A. Yes.

Mr. Ransom: I offer Exhibit 365 for identification in evidence.

Mr. Chambers: I assume that your Honor is going to allow the objections heretofore made to Exhibits 205, 355 and 364?

The Master: Yes.

Mr. Chambers: Now, I want to add to this, and also the same objection will be taken to
18539 Exhibit 364, that it contains evidence or information upon its face showing that in making up the paper the witness used records of the Astoria Light, Heat & Power Company, and other companies, which are not in evidence; and also used records and papers of the New Amsterdam Company, the New York Mutual Company and the Standard Company which are not in evidence.

The Master: Mr. O'Brien covered that by his objection.

Mr. Chambers: And furthermore that it shows upon its face that it is not a computation
18540 or compilation of the figures as shown by the books of the company, but is a determination made by the witness as to some of the matters.

The Master: Objection overruled. I am assuming these same objections are made by all of the defendants, the objections are overruled, and exception allowed, and the paper is received as Exhibit 365 in evidence.

Paper received in evidence and marked Complainant's Exhibit 365.

Mr. Chambers: As the basis of my objection that he used other records and books, I would

like to ask two or three questions, if the Master will permit.

The Master: No. I will say for the information of counsel for the defendants that they need not concern themselves at all about any part of any exhibit or any tabulation which is based upon records and books of account of other companies, insofar as these accounts or records might tend to prove and justify the charge made to this company.

Mr. Ransom: This of course is based entirely upon records of this company. It has been 18542
brought out that he did verify it by records of other companies.

The Master: I don't care anything about that.

Mr. O'Brien: Judge Ransom proceeded to say that he would bring in some more data this was based upon, and I wanted to call your Honor's attention to the fact that the witness had just said he based the Astoria figures upon the records that were lodged in the office of the Consolidated Gas Company.

The Master: All right.

Mr. Ransom: He said he took the figures solely from the company's books. 18543

The Master: Has that 365 been marked in evidence yet?

Mr. Ransom: Yes.

Mr. O'Brien: Will your Honor permit us to examine the witness with respect to the manner in which he formulated these figures?

The Master: I will not.

Mr. O'Brien: So that I can bring out the fact that these figures were not found in this shape on the books of any company, but there has been computations, that there have been elements

added to the figures that were shown on the books which make the new figures, and that therefore they are not a reproduction.

The Master: No. I am going to allow cross-examination within limits when these papers are marked, so that you gentlemen can point out to me items that you say I have no right to regard. That is what I am going to do. I am going to limit the cross-examination to the point, when you show me what you contend about any particular item, that will end it. I am not going
18545 to let it go on forever.

Mr. O'Brien: But the whole process here, you have figures based upon the books of other companies. Your Honor, can't you see the great error that is being made? These are figures based upon the books of other companies that have not been offered in evidence, he has not gone into the details showing how far he examined the books of other companies, and this is a vital matter.

The Master: Next question.

Mr. O'Brien: Exception to your Honor's ruling and the request for leave to examine the wit-
18546 ness preliminary to the receipt of the paper in evidence.

Mr. Ransom: I ask to have marked for identification—

The Master (interrupting): Don't bother marking it for identification. Ask the witness whether he has produced a schedule, and identify it by its title, and don't waste a lot of time marking these things for identification.

Mr. Ransom: I may say this schedule with reference to the expenses of the gas business of the Consolidated Company for the year 1918

is prepared in pursuance of your Honor's intimation that you desired such a tabulation.

The Master: That don't make any difference. If you want to offer it, offer it; if you don't want to offer it, don't. The mere fact that I may have said I would like to have it, in spite of the fact Mr. O'Brien is trying to talk again when I am talking, if you want to offer it, prove it up and offer it.

Q. Mr. Teele, you with your assistants working under your immediate direction and supervision, made an examination into the revenues and expenses of 18548 the complainant company for each of the years 1906 to 1917, inclusive, which are shown in the operating ledgers of the company for those years?

A. Yes.

Q. And have you prepared in comparative and tabular form, the aggregate revenues and expenses during each of those years as you found them shown?

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial.

The Master: Objection overruled.

A. Yes.

Q. And have you stated in separate columns the revenues and expenses of each year, and again at the 18549 top of the column the particular year?

A. Yes.

Q. Did you also examine accounts and records of the complainant from which entries were made in the ledgers for the years 1906 to 1917, inclusive?

A. Yes, sir.

Q. Calling attention to the item of, "Miscellaneous Rent Revenue Gross," in stating that amount for the different years, did you deduct from the gross the payment for taxes, insurance, repairs, etc., as you did in Exhibit 205?

A. I did not.

Q. Where do you show in this statement the expenditures for taxes, insurance, repairs, and so forth, which you have deducted from the Gross Miscellaneous Rent Revenue in Exhibit 205?

A. Taxes are shown under the item of taxes on the expense side and, "Other Expenses" with respect to rental properties are shown under the caption of "Cost to Distribute."

By the Master:

Q. The important thing I want to know, Mr. Teele, is whether as to each year beginning and in-
18551 cluding 1906 to 1918, with the exception as you have starred some notations at the bottom, every figure for each year is arrived at and placed on this statement in precisely the same form and upon the same basis as the preceding year?

A. We have tabulated these figures following the same rules laid down by us for tabulating 1918 and 1919.

Q. In other words, you want me to rely upon the fact that there has been no variance anywhere here in the method of arriving at a figure?

A. I believe they are absolutely identical.

Q. So that when you say at the foot of 1906 that
18552 the net profit or loss for that year was a certain figure, and when you say for 1910 the net profit or loss was a certain figure, you want me to understand that you arrived at that net profit and loss in precisely the same way for each of those years?

A. Precisely; yes, sir.

Mr. O'Brien: I move to strike from the record the statement made to the questions asked by the Court and answered by the witness on the ground that there has been no book offered in evidence that might lead up to the figures concerning which the witness has been catechised

except the operating ledger for the several years, from 1906 on, that he has not been shown to have made an audit of all the books running back over the years covered by the paper concerning which your Honor catechised him; that he has not been shown either through himself or through his men to have made such an examination, that his testimony in fact was that he spent the time from the 1st of January down to the first day he went on the witness stand with his twenty odd men in examining the books for 1918 and 1919, and therefore all of these 18554 questions concerning these figures here are not properly in this case, and therefore should be stricken from the record.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Q. Mr. Teele, on Exhibit 205 you show the item of $905.68 commissions on "Others Gas" as a revenue item. How do you show this item of commission on Others Gas in the 1906 to 1918 statement concerning which you are now being interrogated?

A. That is deducted from the item of Cost of Production in 1918 on this statement for comparative costs. 18555

Q. And in all the other years?

A. It does not occur.

Q. It does not appear in any of them?

A. No, sir.

Q. And the column headed 1906, does the amount stated to have been received from sales of gas include the sales for the first four months of 1906 at the former rate of $1 per thousand cubic feet of gas sold?

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial.

The Master: Overruled.

Mr. O'Brien: Exception.

A. It does.

Q. Did you in making up this statement deduct from the miscellaneous revenue the charges for taxes and maintenance applicable to the rented property in order to arrive at a net revenue.

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial.

A. I did not.

Mr. O'Brien: On the further ground that it
18557 relates to appliances that are not part of the gas making business.

The Master: Overruled.

Mr. O'Brien: Exception.

Q. You did not make the deduction?

A. No, sir, I did not.

The Master: What is this notation here against "Rent for Jointly used Facilities." What does that mean, after deducting percentage upon pro rata value of jointly used facilities?

A. It means the same deduction that was made in 1918, six per cent upon the valuation allocated to the valuation of the facilities used by other companies, as
18558 deducted from the total rent of jointly used facilities in 1918, and the same deduction has been made throughout this statement from 1906 to 1918, so as to put them on the same basis.

Mr. Ransom: I offer this same statement concerning which I have been interrogating the witness, in evidence.

The Master: The objections of all counsel on all the grounds sustained as to Exhibits 205, 355, 364 and 365, will be noted. Are there any other grounds?

Mr. Chambers: Yes. I want to add, in addi-

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tion to the objection heretofore made to those exhibits named by the Court, the further ground that this paper shows upon its face to have been made up from various records and papers of the Consolidated Gas Company which are not in evidence and have not been offered in evidence; and the further ground that the witness having stated he used the same method in making up this paper for the various years stated in it which he used in making up Exhibits 354 and 355.

The Witness: No, I did not.

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The Master: He said he made this up the same as 205.

Mr. Chambers: Therefore he used his judgment and discretion in arriving at certain conclusions.

The Master: That is why I brought that out, Mr. Chambers, because if you establish the fact that there is an error in 1918, on the basis that you have just discussed, I must have that in mind as to all of the years, but so long as the same error runs through I can get a picture of the same general situation. That is why I brought that out.

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Mr. Chambers: That as to many of the details it is the operation of the witness's own mind and not based upon the papers or records in evidence, and it is therefore not a compilation of the figures from the books of the company.

The Master: I think it is as to the essential matters that I have in mind.

Mr. O'Brien: I offer to the admission of this paper the same objections which I urged with respect to Exhibits 205, 354 and 355.

The Master: That is already noted.

Mr. O'Brien: On the further ground that the

paper is based upon books that have not been produced in evidence.

The Master: Hasn't Mr. Chambers said that?

Mr. O'Brien: Upon the papers—will your Honor permit me—

The Master: I won't let you waste a lot of time repeating what has been gone over time and again. I owe it to everybody here to stop it if I can, and you owe it to us to stop it.

Mr. O'Brien: I want to express my objection in my own way.

18563 The Master: Well, I won't permit it.

Mr. O'Brien: I want to say something more than Mr. Chambers has said.

The Master: You will have to give me something additional to what has been stated in all these objections, or I won't permit you to continue.

Mr O'Brien: I offer the further objection that the witness has not indicated that he has made an examination of the books to test the reliability of the figures in the general books of account of the complainant company for the years prior to 1918; that he has not made an audit of those

18564 books, that he has not given us testimony here which will show whether or not all of the earnings of the company during the years 1906 to 1919 have been included in the receipts for each one of the years, including earnings from sources from the investments other than the actual sale of gas; on the ground that the witness has testified that he has used the same method and included the same items for every year, whereas, we know from the testimony already in the case that the operations of the company were different in different years, that the method of receiving

transferred gas may have been different in different years; and the further ground that the paper offered has here titles that are not the titles of any particular account, and hence we may conclude that the witness has applied his own figures, made his own computations, made his own readjustments, and has passed judgment upon allocation of figures so as to include them or exclude them from these particular sundries, as for example, I would refer to the inclusion of taxes and interest thereon, where all the taxes are grouped together and we don't know just what they obtain 18565 18566 to, and it has not been shown by the preliminary testimony that he has figured them all out and excluded some and included others and the same as to uncollectible gas bills, that he has not shown what he has predicated the figures as to uncollectible gas bills upon, or whether the same methods were used by the company to determine so-called uncollectibles for the several years. And so with the cost of distributing and the cost of reproduction and giving us total figures for the several years, it has not been shown that he has made an audit and examined and anlyzed the books and records of the companies that were 18567 affiliated with the complainant company during those years, and from whom and to whom they received or transferred gas. So that, your Honor, this is entirely without foundation, and I again urge my objection and protest most vigorously against this kind of proof being received, for the reason that it is entirely without foundations that would make it even in the first instance admissible.

The Master: The objections are overruled, the paper will be received in evidence as Exhibit 366.

Marked Complainant's Exhibit 366.

Q. Mr. Teele, did you with your assistants working under your immediate direction and supervision prepare the schedule "Additions to Manufacturing Plant and Equipment, January 1, 1906, to December 31st, 1918," heretofore marked Complainant's Exhibit 185 for Identification?

A. I did.

Q. Preliminary to the preparation of this statement what books and records of the complainant company did you examine?

A. Operating ledgers, vouchers and underlying
18569 data to the entries referred to in the accounts examined.

Q. What is meant by the reference throughout this statement "Led. Fol."?

A. That indicates the book and page upon which the items so marked may be found.

Q. What do the figures opposite the ledger folio represent—ledger folio references?

A. The amounts shown in the books for the items so indicated.

Q. The figures immediately following "Led. Fol" are folio references?

A. The figures immediately following the ledger
18570 folio indicate the ledger pages upon which the account or items aggregating the amount set opposite may be found.

Q. Were all the amounts of expenditures shown in this schedule taken directly from the ledger folios to which reference is made?

A. They were.

Q. And do the ledgers contain the same general description of portions of plant as you have set forth in this statement?

A. They do.

Q. And also subdivisions into columns showing the details as given in this statement?

A. Yes, sir.

Q. Did you take further descriptions of work and materials set forth in this schedule from the vouchers of the various expenditures which you examined?

A. Yes.

Q. In this statement have you grouped under one heading all expenditures made at each station for each division of plant and equipment during the years 1906 to 1918 inclusive?

A. I have.

Q. Were all the expenditures for additions shown on the books of the company made with the employ- 18572
ment of the company's own force or were some expenditures made by the company under contract with independent contractor?

Mr. Chambers: I object to that as incompetent, irrelevant and immaterial. The witness does not know.

Mr. Ransom: They are shown by the books to have been made in some instances by contractors.

Mr. Chambers: He is going outside the information contained in the books.

The Master: I will take it.

Mr. Chambers: Exception.

A. The vouchers examined indicate that the com- 18573
pany employed the services of outside contractors at times.

Q. In some instances?

A. In some instances.

Q. Do the amounts shown on this Complainant's Exhibit 185 for identification as having been expended by the complainant for the described additions include the cost both of material and labor, as shown by the books and vouchers?

A. They do.

Q. Do the charges for engineering and for superin-

tending construction appearing on the last pages of this schedule also appear on the ledger folios to which reference is made?

A. They do.

Mr. O'Brien: Do you mean, Judge Ransom, in the same figures?

Mr. Ransom: Yes.

Q. Did you summarize the total amount shown by the books of the complainant company to have been spent for additions at each of its stations from 1906 to 1918 inclusive, on the summary sheet preceding the de-
18575 tailed schedule?

A. I did.

Q. What is the total amount of the charges made upon the company's books of account for additions to manufacturing plant and equipment from 1906 to 1918, inclusive, as ascertained by you?

Mr. Chambers: I object to that as incompetent.

Mr. O'Brien: I object to it, it is incompetent, and irrelevant.

The Master: Read that question to me.

(The stenographer repeated the question.)

The Master: Is not that in the schedule?

Mr. Ransom: Yes. I will withdraw the ques-
18576 tion. I offer in evidence Complainant's Exhibit No. 185 for identification.

Mr. Chambers: Same objection.

Mr. Ransom: Copies of this were furnished to the defendants in May or June of this year.

Mr. Chambers: I object upon the same grounds as fully stated when Exhibits 205, 355, 364, 365 and 366 were offered.

Mr. O'Brien: I renew the objections that were made with respect to Exhibits 205, 355, 364, 365 and 366.

The Master: The objections are overruled.

The paper will be received in evidence as Exhibit No. 185.

Mr. O'Brien: Before receiving it, your Honor, I would ask the privilege of going over this voluminous exhibit with the witness, to find out what part of it is based upon records that are not received in evidence, what part is based upon records of other companies, what part of it is computation made by the witness—matters involving all those different items.

The Master: Application denied.

Mr. O'Brien: Exception. Is your Honor re- 18578
ceiving it tentatively?

The Master: I am receiving the paper.

Mr. O'Brien: Simply as a tabulation of figures on the books?

The Master: That is all it is offered for, is it not?

Mr. Ransom: Tabulations from the books and vouchers.

Mr. O'Brien: I call your Honor's attention to the fact that the only book received in evidence for the other years—that is prior to the tabulation marked 366—was the operating ledger of each year, and that it has not been made clear 18579
that this tabulation is based simply, solely and entirely upon books marked in evidence.

The Master: I think I understand the situation. I will receive it. It is marked in evidence as Exhibit 185.

Exhibit 185 for identification was then marked Complainant's Exhibit No. 185, in evidence

Mr. O'Brien: Counsel has only asked him four or five questions about it, your Honor.

The Master: I think if I were offering it I would only have asked him one.

Mr. O'Brien: It is just like asking the witness to read over the complaint in this action—do you believe the allegation to be correct—answer yes—relief for the plaintiff in the shape of a permanent injunction.

The Master: Not until the defendant is heard.

Mr. O'Brien: The defendant does not have to be heard, your Honor. The Supreme Court of the United States would not receive an agreed statement of facts similarly gotten up.

Q. Mr. Teele, did you also similarly prepare the
18581 statements endorsed, "Consolidated Gas Company, Manufacturing Plant and Equipment Withdrawn from Service, January 1, 1906 to December 31, 1918?"

A. I did.

Q. To show the cost of such portions of the manufacturing plant and equipment as were withdrawn or retired from service during that period, as shown by the books?

A. Yes.

Q. In which accounts of the company is the record kept of the cost or value of plant withdrawn from service?

A. When plant is withdrawn from service the ac-
18582 count to which it was originally charged is credited, and it is charged on the other side into a suspense account pending its final transfer to the reserve account.

Q. What practice do you find has been followed in the certification by the engineering department of the company relative to each withdrawal or retirement of portions of manufacturing plant and equipment?

A. The entries examined for the withdrawal of plant bear the endorsement of the chief engineer and carry with them information regarding the original cost of the property, or the estimated value by the engineering department—or an estimate by the engi-

neering department, where original cost has not been identified in the records of the company.

Q. And that is the basis for each entry in the books of account of plant withdrawn from service?

A. It is.

Q. On this schedule as furnished by the complainant to the defendants last May or June you used the term, "Cost Valuation" heading the first column of figures on pages 3 to 19. Just what was meant by that?

A. The items appearing in the column entitled, "Cost Valuation" are the values placed upon the property indicated by Mr. F. J. Mayer in his appraisal of the property at the time of the litigation in 1906. 18584

Q. And that is what is meant there by the term to which I have referred?

A. That is what is meant by the—

Mr. Chambers: What name did you use?

The Witness: F. J. Mayer.

Mr. O'Brien: May I ask the witness a question here, your Honor? Will the Court kindly ask him whether he has taken the exhibit of Mr. Mayer in that case?

The Master: No, I will not.

Q. Will you also explain what you meant by the heading, "Book Value," and the subtitles, "Items Identified," and "Items not Identified," in these schedules? 18585

A. The amounts appearing in the column "Items Identified" are the amounts credited on the books of the company for items which were identified in the Mayer appraisal. The amounts set down in the column "Items not Identified" are the amounts appearing on the books of the company for property which was not identified in the Mayer appraisal.

Q. I notice that on this schedule as furnished to the

defendants you made certain references to "Record" and to "Rowland Appraisal." Just what is meant by such references in so far as any appear on this paper?

A. The reference made to the record page means the record of Mayer's testimony in the 80-cent gas case. Reference made to Rowland appraisal means the record of the appraisal made by Thomas F. Rowland at the date of the consolidation, taken from the record of the proceedings of the Joint Investigating Committee appointed March 16, 1905, and represents
18587 the cost to the Consolidated Company of property taken over at the date of consolidation.

Q. Do these certificates of the engineers indicate whether the item of property referred to was in the Rowland appraisal, or not?

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial, any certifications the engineers may have made speak for themselves. He is asking the witness to interpret some paper that is not before the Court, has not been received in evidence, and of whose existence we do not know.

The Master: Objection overruled.

18588 Mr. O'Brien: Exception.

A. Either the certification or papers accompanying the entries from the Engineering Department indicate where the original records will be found, or whether such record will not be found.

Q. Have you set down in these schedules a description of all plant and equipment and manufacturing or holder stations of the complainant company shown by the books of account and underlying records to have been withdrawn from service since January 1, 1906?

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial.

The Master: Objection overruled.

Mr. O'Brien: Exception.

A. Yes.

Q. Have you separately stated in these schedules the withdrawals of portions of plants which the books of account and records show have been installed subsequent to December 31, 1905?

Mr. O'Brien: I make the same objection. The books and records referred to have not been received in evidence, and their existence has not been proven.

The Master: Same ruling. 18590

Mr. O'Brien: Exception.

A. Yes.

Q. Have you also shown in the column headed, "Book Value" the amount at which the retirement of the respective portions of property were credited upon the operating ledgers of the company?

Mr O'Brien: I make the same objection.

The Master: Objection overruled.

Mr. O'Brien: Exception.

A. Yes.

Q. How did you identify the property withdrawn with the property set up on the Rowland appraisal?

Mr. O'Brien: I make the same objection. The 18591
Rowland appraisal has not been received in evidence in this case.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. By the description of the property contained in the papers filed with the entries or referred to in connection with the entries, and in addition to their stating any identification by an engineer of the Consolidated Gas Company.

Mr. O'Brien: I move to strike out the answer of the witness because it appears that he has been

leaning on some engineer and taking oral information from him as to the item in question.

The Master: Motion denied.

Mr. O'Brien: Exception.

Q. Did you find that the descriptions and itemization of property in the Rowland schedule were sufficient to enable you to identify property?

Mr. O'Brien: I make the same objection, and on the further ground that he is having the witness interpret language, figures and other data contained in a paper not offered in evidence and
18503 not before the Court.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. In most cases.

Q. In order to arrive at a calculation of plant property included in the Mayer appraisal and subsequently withdrawn, but which you could not specifically identify in the Mayer appraisal, what did you do as to that with respect to checking and verifying its withdrawal and the amount at which it was withdrawn?

Mr. O'Brien: I make the same objection as to the last three or four questions, with the further objection that he has assumed here that the wit-
18504 ness was able to identify certain properties, which assumption is not correct.

The Master: The same ruling.

Mr. O'Brien: Exception.

A. Items of property which were withdrawn not specifically identified in the Rowland appraisal, but which it was clear to me were included, were owned by the company at the date of the appraisal, and the book value--

Q. You mean the Mayer appraisal?

A. The date of the Mayer appraisal, and the book value of which was either estimated or ascertained, I

made a comparison between the items identified in the Mayer appraisal and the book value of those items, and I found what the ratio was existing between the two values; and for those items for which there was a book value which I was not able to identify in the Mayer appraisal, I applied the same ratio, the amount being comparatively small, I applied the same ratio, and raised the book value to the value of the identified items in the Mayer appraisal.

Mr. O'Brien: Your Honor, we are getting into dreamland now, and I am going to ask that the last question and answer be stricken out, it having 18596
appeared that the witness is giving us some figures here that are based upon two papers not received in evidence, not yet offered in evidence, and their existence at the present time is not proven, to wit, the Rowland appraisal and the Frederick J. Mayer appraisal.

The Master: Motion denied.

Mr. O'Brien: On the further ground that the witness has indulged in comparisons and estimates, and has applied out of them certain percentages that he himself has calculated, and that the whole thing is theoretical, not founded on facts, not founded on papers or testimony yet re- 18597
ceived in evidence.

The Master: Motion denied.

Mr. O'Brien: Exception.

Q. On page 2 of this schedule have you shown this method in detail?

A. I have.

Q. The ratio of the Mayer valuation of identified property to the book value of identified property is what?

A. 98.467 per cent.

Mr. O'Brien: I move to strike out the answer.

The paper has not been received in evidence, and the witness has been asked to give us some figures from a paper not yet received.

The Master: I think you are perhaps technically right, but I will deny the motion.

Mr. O'Brien: Exception.

Q. In addition to making up this detailed statement, Mr. Teele, have you summarized on page 1 of this schedule the plant and equipment withdrawn at each of the manufacturing stations and holder stations since January 1, 1906, as shown by the company's books and
18599 the underlying data to which you referred?

A. I have.

Q. Have you also summarized for comparative purposes the Mayer appraisal of identified property withdrawn since January 1, 1906?

Mr. O'Brien: I make the same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Yes.

Q. And in the summary of the withdrawal of property identified by you with the Mayer appraisal have you also added and shown your estimate of the value of property not identified in the Mayer appraisal, in-
18600 cluded in the way you have testified?

Mr. O'Brien: I make the same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. I have.

Q. And these summaries are shown on pages 1 and 2 of this schedule?

A. They are.

Mr. Ransom: I offer in evidence the detail statement and the summary, Manufacturing Plant and Equipment Withdrawn from Service January 1, 1906 to December 31, 1918, of the Consolidated Gas Company.

The Master: I take it that the counsel for the defendants interpose to this schedule all the objections that have heretofore been made to the other exhibits?

Mr. O'Brien: And the further objection that the direct-examination of the witness was supposed to have been concluded, and when he was recalled he was supposed to be recalled for cross-examination.

The Master: The objections are overruled and the paper will be received in evidence.

Mr. O'Brien: Exception. 18602

Mr. Chambers: The same objection as to the others, and exception.

Paper received in evidence and marked Complainant's Exhibit 367.

Q. Mr. Teele, have you similarly made an examination into the accounts and records of the complainant company in respect to Services, Meters and Miscellaneous Property Added to and Withdrawn from Service between January 1, 1906 and December 31, 1918?

A. Yes.

Q. As a result of that examination did you prepare a schedule covering that, for the period from January 1, 1906 to December 31, 1918? 18603

A. Yes.

Q. On pages 3 to 5 of this schedule did you set forth a summary from the books and expenditures and credits in each year from 1906 to 1918 on account of Services Added and Services Withdrawn?

A. Yes.

Q. On page 2 did you show in condensed form the book balance of services on January 1, 1906, and additions and withdrawals since then?

Mr. O'Brien: I make the same objection, and

on the further ground that we do not know what he means by "condensed."

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Yes.

Q. On pages 6 to 9, did you similarly summarize, taken from the books of account and underlying records, Meters Added and Meters Withdrawn from Service during 1906 to 1918, both inclusive?

Mr. O'Brien: I make the same objection.

The Master: Same ruling.

18605 Mr. O'Brien: Exception.

A. Yes, sir.

Q. At pages 10 to 13 of this schedule did you show similar summaries of the entries in the books of account relative to Cocks and Connections Added to and Withdrawn During the Same Period?

Mr. O'Brien: I make the same objection, and on the further ground that the Judge is working that word "similarly" overtime.

The Master: Same ruling.

Mr O'Brien: Exception.

Q. At pages 14 to 17 did you similarly summarize the entries in the books of account relative to Additions and Withdrawals of Rented Gas Stoves and Gas 18656 Appliances during the same period?

Mr. O'Brien: I make the same objection, and I object on the further ground that the question relates to matters which are extraneous to the gas making business.

The Master: Overruled.

Mr. O'Brien: Exception.

A. Yes, sir.

Q. At pages 18 to 31 did you similarly show in summary form the entries in the books of account relative to Tools and Implements Added to or Withdrawn from Service during the same period?

Mr. O'Brien: I make the same objection.

The Master: The same ruling.

Mr. O'Brien: Exception.

A. Yes.

Q. At pages 32 to 35 did you similarly show in summary form the book entries relative to Additions to and Withdrawals from Automobiles and Accessories during the same period?

Mr. O'Brien: I make the same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Yes. 18608

Q. At pages 36 to 40 did you similarly show in summary form from the books, the Horses, Wagons, Harness and General Stable Service Equipment Added to or Withdrawn from the Service of the Company during the same period?

Mr. O'Brien: I make the same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

A. Yes.

Q. At pages 41 to 66 did you similarly show summaries of Furniture and Fixtures Added to or Withdrawn from the Service as shown by the books?

A. Yes, sir. 18609

Mr. O'Brien: I make the same objection.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Q. At page 67 did you similarly show the additions to or Withdrawals from Scows from the complainant company during the same period?

Mr. O'Brien: I make the same objection, and on the further ground that scows appear for the first time in this case, and have not been proved.

The Master: Objection overruled.

Mr. O'Brien: Exception.

A. Yes, sir.

Q. At page 68 in this schedule did you show a summary of the Charges for Interest During Construction from 1915 to 1918, Applicable to the Installation of Services, Meters and Miscellaneous Property?

Mr. O'Brien: I make the same objection, and on the additional ground—

The Master: This is marked, "Interest During Construction." The items seem to be discount allowed on construction expenditures.

The Witness: That is in accordance with the Public Service Commission's classification.

18611 Mr. O'Brien: I make the same objection, and on the further ground that any additional figures of overhead which are for so-called interest during construction are improper, and should not be added to the original cost of the articles in question.

The Master: Objection overruled

Mr. O'Brien: Exception.

A. Yes, sir.

Q. Will you explain that item?

A. In the Public Service classification interest charged on construction, or discount on construction material, is credited to an account to be entitled, "Interest During Construction." It happens that the Con-
18612 solidated Gas Company has no interest charged on construction, and the only item appearing in the account was entitled, "Discount Allowed on Construction Expenditures," so that the items set forth here go to reduce the cost of construction.

Q. On page 1 of this schedule did you bring together and show the aggregate of each of the various matters summarized relative to Additions to and Withdrawals from Service, Meters, Miscellaneous Property, from January 1, 1906 to December 31, 1918, together with the book balance of such property on January 1, 1906 and December 31, 1918?

Mr. O'Brien: I renew all the objections I have made with regard to the questions as to each page of this schedule; and on the further ground I object that the method of computation has not been shown, and that apparently the witness has embodied his own element of computation and made these figures in his own peculiar way; they are not reproduction of figures that appear in any book of account, and are not computations from any books received in evidence.

The Master: Objection overruled.

Mr. O'Brien: Exception. 18614

Q. Have you prepared such a summary or tabulation?

A. I have.

Q. And that shows the aggregate brought together on one page?

A. It does.

Mr. Ransom: Now, I offer in evidence this schedule of "Services, Meters and Miscellaneous Property, Additions and Withdrawals, January 1, 1906 to December 31, 1918," on the same basis as heretofore.

The Master: The same objection as to 367.

Mr. O'Brien: I make the same objection to all 18615
the others and the additional objection that here we are dealing with factors that do not appear in the other papers as such, particularly appliances. In connection with the appliance business there has not been shown the method by which the appliances are transferred to the scrap heap, and what valuation is placed upon them, what inventories have been made from time to time of the properties of this character owned by the complainant company, and the witness has apparently depended upon oral statements made to him ex-

plaining many of those matters, he is dependent upon papers which are not in evidence and which are not known and have not been proven to be in existence, and I note an exception to your Honor's ruling.

The Master: Objection overruled. Exception noted.

The Paper was marked Complainant's Exhibit 368.

Q. Mr. Teele, did you make an examination into the books, accounts and underlying records of the com-
18617 plainant company in respect to additions and withdrawals from street mains?

A. Yes.

Q. As a result of your examination, have you prepared a schedule entitled "Summary of Street Mains, Additions and Withdrawals 1906 to 1918, Consolidated Gas Company"?

A. Yes.

Q. Do the ledgers for each year show the total charges or credits to fixed capital for street mains added or withdrawn?

A. Yes.

Q. Are the mains for which detail accounts are kept
18618 in the operating ledgers themselves described on page 65 to 68 of this schedule?

Mr. O'Brien: Objected to on the grounds already stated and on the further grounds that the question assumes that detailed accounts are kept in the ledger, which is contrary to fact.

The Master: Read the question.

(The question was read by the stenographer.)

The Master: Objection overruled.

The Witness: Yes.

Mr. O'Brien: You see, your Honor, we found that the operating ledgers are hieroglyphic, they

only give you the sign language there. They do not give you any details. Counsel is incorporating that in his question here.

The Master: Next question.

Q. Are the details of the entries concerning these street mains set forth on pages 3 to 64 of this schedule set forth in the street main records?

Mr. O'Brien: Same objection.

The Master: Same ruling.

The Witness: Yes.

Q. Which main record books of the complainant contain the account of the details of the additions to or withdrawals from mains during 1906 and 1918? 18620

Mr. O'Brien: Same objection, your Honor, there being no paper as yet received in evidence which shows the details referred to by counsel.

The Master: Same ruling.

Mr. O'Brien: Exception.

The Witness: Street main record books numbers 4 to 9 contain the additions to street mains and books 4 to 6 contain the withdrawals.

Q. And the total charges are carried into the ledger plant account?

Mr. O'Brien: I call your Honor's attention to the fact that we are now dealing with matters which were referred to in the examination that we conducted at the company's offices when we were there to find out how they were going to show us, to get together their inventory and verify it. At that time you will recall that we were asked—you will recall that Mr. Simpson appeared in the background at that hearing, and we finally asked him some questions, and he refused to give us the papers that contained the detail that we wanted in regard to the very subjects concerning which the witness is now being 18621

catechised, and your Honor commented upon their failure at that time to produce those papers, and their unwillingness to produce them, and without those details it would be impossible to verify the items set forth in the main books concerning which the witness is now catechised. It appearing therefore that these books are not in evidence, that the data contained in those books having been taken from what Mr. Simpson at that time called his private memoranda, the question asked the witness is entirely inadmissible,
18623 and I therefore object to it.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Q. That is, the total charges as shown in these street main books are carried over into the plant account on the ledger?

A. No, they are not. They are carried in the street mains account.

Q. And the street mains account is in the ledger?

A. It is in the ledger.

Q. Containing these charges carried over from the street main books which you have mentioned?

A. The street mains account in the operating ledger
18624 contains all of the charges which are set out in detail in the books designated as street main records numbered from 4 to 9, covering the period from 1906 to 1918, inclusive.

Q. And the same way the matter of withdrawals?

Mr. O'Brien: Your Honor, you are going into subterranean channels, because you will recall what I just said here about Mr. Simpson's private memorandum, and we have here now, questions that are going to items that are supposed to be set up in the books and they are not offered in

18625

evidence, and private memorandum that has not been furnished to us.

Mr. Ransom: It is all set up in the books, in the ledgers which are in evidence.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Q. What is the basis upon which the accounting department of the complainant makes entries in street mains account and street main records for mains added or mains withdrawn?

A. They make it upon information conveyed to them through vouchers and pay rolls and reports rendered by the street department.

18626

Q. Did you show in this schedule the general location of mains added or withdrawn, the ledger or street main record, a folio where the expenditure or cost is recorded and the amount of the charge or credit?

A. Yes.

Q. Have you set forth in this schedule a summary of all charges and credits for mains added and mains withdrawn from January 1, 1906, to December 31, 1918, as shown by the books of account of the complainant company?

A. I have.

18627

Q. Have you stated in tabular or condensed form upon sheet 1 of this schedule, the additions and withdrawals of which the details are given in the subsequent pages?

Mr. O'Brien: Same objection, your Honor, and on the further ground that the condensed form, the tabloid form of testimony is to be condemned, it should not be received here in place of the actual figures of the books.

The Master: Objection overruled.

Mr. O'Brien: Exception.

A. Yes, sir.

Q. And this schedule is an accurate statement of additions and withdrawals of mains as taken from the books and records which you have described?

Mr. O'Brien: Same objection, your Honor, asking the witness to characterize his own work as being correct.

The Master: Overruled.

Mr. O'Brien: Exception.

A. Yes, sir.

Mr. Ransom: I offer it in evidence.

The Master: The same objection as was made
18629 to the last exhibit?

Mr. Chambers: The same objection, yes, sir.

Mr. O'Brien: Before it is received, I ask the privilege of catechising the witness—

The Master: The title of it is "Consolidated Gas Company, summary of street mains, additions and withdrawals, 1906 to 1908, inclusive."

Mr. O'Brien: I ask, before the book is received in evidence, the privilege of catechising the witness with respect to the manner in which he put together these figures, the sources of his information and his methods of computation.

The Master: Application denied.

18631 Mr. O'Brien: Exception.

Paper marked Complainant's Exhibit *369*.

Mr. Ransom: I offer in evidence the testimony of Frederick J. Mayer, called as a witness in the prior suit, shown at pages—

The Master: Let me interrupt you, Mr. Ransom, to save time. I am not going in any event to permit you to offer in evidence testimony in that form. You will have to bring up that question by offering to read the questions and answers given by Mayer.

Mr. Ransom: Well, I offer to read.

The Master: On the trial of the other action, so that counsel for the defendants will have the same opportunity to object to the question now as if Mayer were here. And I won't let you do it now in any event. I am going to ask you to wait to call another witness until Mr. Teele's cross-examination is finished.

Mr. Ransom: May I make my offer then?

The Master: No, I won't let you make an offer now. I won't let you do a thing now. I am going to finish with Mr. Teele. You are 18632
asking to call another witness while this witness is on the stand, and I won't permit it. I will say now for the information of counsel that I am inclined to permit Mr. Ransom to examine two witnesses whom he has given me here, Mayer and Simpson, upon proof that those witnesses are dead.

Mr. Ransom: That has already been proved.

The Master: Has it?

Mr. Ransom: Yes.

The Master: I am inclined to do it, and have you given the other side copies of this memorandum? 18633

Mr. Ransom: I have.

Mr. Chambers: It is not a suit between the same parties?

Mr. Ransom: Oh, yes, it is.

Mr. Chambers: No, it is not. The city was a party.

The Master: I am going to rule that the action is between the Consolidated Gas Company and the People of the State of New York.

Mr. O'Brien: Well, is your Honor going to

make your ruling without having a memorandum from us and hearing us on this subject.

The Master: I say I am inclined to that view, and I am telling you now.

Mr. O'Brien: May I ask when your Honor received the memorandum from the complainant?

The Master: About a half hour ago.

Mr. O'Brien: I note upon the record that Judge Ransom has just handed me what purports to be a copy of a memorandum upon the question
18635 of the admissibility at the present trial of the evidence given upon the former trial by Frederick J. Mayer and Coler C. Simpson, witnesses since deceased. I will defer any argument on this matter until you take it up.

The Master: I am telling you, gentlemen, how my mind runs. I am inclined to agree with Judge Ransom about this, but I am not going to let other witnesses be called at this time. You will probably have plenty of time to digest that memorandum if you have any particular case you want to call my attention to.

Mr. O'Brien: Well, Judge Ransom, will you
18636 kindly state now whether you intend to call in this case the witnesses who are still living who testified in the former case?

The Master: Judge Ransom don't have to say anything about that.

Mr. O'Brien: Well, this will have a bearing, maybe, on the question that is before us, the legal question that is involved.

The Master: Well, he can answer it if he wants to.

Mr. Ransom: The defendants may cross-examine the witness Teele.

The Master: As I understand it, Judge Ransom, the defendants have had these various schedules that were marked in evidence today for some days, have they?

Mr. Ransom: Since May and June.

The Master: All right.

Mr. Ransom: I can give you the specific dates.

The Master: You need not, unless there is some question about it.

Mr. Chambers: I don't want to admit that that is the date. We have the correct date somewhere, of when we received them. 18638

Mr. O'Brien: I want to say further upon that subject, your Honor, that repeatedly during the progress of this trial counsel for the complainant was asked whether or not he intended to put at issue in the actual trial the operating expenses and the operating receipts of the complainant company for the years 1906 to date. He declined to state whether or not that was his purpose, and so far as the record went there was only one book offered in evidence that extended back over those years, and that was the operating ledger—although some schedules were gotten up showing the range of prices of materials when the witness Gawtry was on the stand, and certain schedules showing the range in prices of labor, costs of labor, while the witness Woods was on the stand. 18639

Up to the present time there has been no other indication given to the defendants that the complainant intended to put at issue the matters that were set forth in these schedules. Furthermore, that as to one of the schedules prepared by the witness Teele, and which have been prior to Mr. Teele's taking the stand in the first instance fur-

nished to the defendants, the witness Teele came into court on that day with that schedule changed in many particulars and in many vital points.

So that, even if it were assumed that the schedules which have been furnished by the complainant to the defendants were going to be offered in evidence at some time during the case, the action of Mr. Teele in submitting a modified and corrected schedule at the time he went on the stand as to one of the schedules furnished would indicate that similar changes might take place
18641 in the data that was furnished by the complainant to the defendants in the form of various schedules.

I note this so that your Honor will see the attitude of the complainant, the effort made to keep the defendants in the dark, the effort made by the complainant to have the defendants waste their time and lose their time on other matters, without divulging the fact that they were going ahead upon the schedules that were furnished at the time he says they were to the defendants.

The Master: Now, Mr. Chambers, go ahead with your cross.

18642

CROSS-EXAMINATION BY MR. CHAMBERS:

Q. Mr. Teele, in preparing Schedules 205 and 355, what system of accounts did you follow?

A. I followed the system of accounts in use by the Consolidated Gas Company.

Q. That is to say, you did not follow the system of accounts outlined by the Public Service Commission?

A. I did not say so.

Q. I say you did not?

A. I did not say so. I followed the system of accounts that is in use by the Consolidated Gas Company.

The Master: Is not that the system prescribed by the Public Service Commission?

The Witness: Yes, it is.

Q. It is the same?

A. The same classification of accounts. They do not prescribe a system of accounts.

The Master: They are classified as prescribed by the Public Service Commission?

The Witness: They prescribe a classification 18644
only.

Q. In determining how items should be classified what rules and definitions did you follow, those of the company or of the Public Service Commission?

Mr. Ransom: I object to this. It has been fully covered before this exhibit was received, in the preliminary cross-examination.

The Master: I am going to let Mr. Chambers go through with the questions he has prepared, even though it is a duplication. I think we will save time. I take it these questions have been prepared in the light of this examination. I will let you go through with it and get your information. 18645

A. Ask that question again.

Q. In determining how items should be classified, what rules and definitions did you follow, those of the company or of the Public Service Commission?

A. Those of the Public Service Commission.

Q. Are all of your schedules, then, in accordance with the uniform system of accounts of the Public Service Commission?

A. The expenditures shown on these schedules have

been classified in accordance with the uniform system of accounts.

Q. Are all your schedules, then, in accordance with the uniform system of accounts?

A. Yes, with the exceptions as previously noted in regard to deductions made.

Q. Have you audited all of the accounts that have been examined—you, yourself?

Mr. Ransom: I object to the question as too vague.

The Master: I assume you mean 1918 and
18647 1919?

Mr. Chambers: All that he has examined.

The Master: He has not testified that he audited the books back to 1906.

Mr. Chambers: I am not speaking of the books—the accounts he examined.

The Master: He audited the accounts for 1918. Did you not, Mr. Teele?

The Witness: I testified that I made an examination, together with my assistants, of the accounts of 1918 and 1919.

By the Master:

Q. That was in the nature of an audit, was it not?

18648 A. Yes, in the nature of an audit.

Q. For 1918 and 1919?

A. Yes.

Q. But not for the previous years?

A. Not for the previous years.

By Mr. Chambers:

Q. That is, you audited all accounts examined for 1918 and 1919—you yourself?

A. No, not I, myself. I have not so testified at any time.

Q. What accounts have you audited yourself personally for 1918 and 1919, that you examined?

The Master: You know, Mr. Chambers, that there is not a single book that he personally has audited himself.

Mr. Chambers: I do not know how he did it.

The Master: Just ask him that question.

The Witness: There is not any single account that I have personally audited complete.

Q. That is, speaking for 1918 and 1919?

A. Yes.

Q. For the years previous to 1918 and 1919, did you audit the accounts that you examined—you, yourself, personally? 18650

A. I examined many of them.

Q. But you did not audit them, did you?

A. And examined the vouchers in connection with them.

Q. Would you call that an audit?

A. An audit of the accounts examined, yes.

Q. What years were those? A. Running through from 1906 to 1918.

Q. That is, you personally audited some of the accounts?

A. I examined very many of the vouchers, hundreds of the vouchers in connection with those accounts. 18651

Q. You yourself personally?

A. I myself personally.

Q. Could you identify the different accounts that you so examined?

A. I would not undertake to.

Q. You do not know which ones they are?

A. I would not undertake to at this time.

Q. Would you say, then, that you audited the accounts?

A. I personally?

Mr. Ransom: I object to the question.

Q. Prior to 1918?

A. I would not say that I personally audited all of the accounts.

Q. Did the men under you, your assistants, do it?

The Master: Prior to 1918?

Mr. Chambers: Yes.

The Master: Objection sustained. It has been already answered. They did not make an audit prior to 1918.

Mr. Chambers: The Master states for the rec-
18653 ord that they did not audit the accounts prior to 1918.

The Master: There is not any question about this: Prior to 1918 there was no such specific examination or audit made of the books as there was in 1918 and 1919. There was an examination made for the purpose of satisfying himself as to the accuracy of the records, but there was not an audit made in the sense of a definite and specific examination of the various accounts. Am I right, Mr. Teele?

The Witness: You are right.

Q. Are you certain that no items have been improp-
18654 erly charged, or entered differently than required by the Public Service Commission?

The Master: For what year?

Mr. Chambers: 1918 and 1919, or for any year. Well, we will limit it to those two years.

A. No such have come to my attention.

Q. I am asking you if you are certain that no items have been improperly charged?

A. I have answered the question, I think.

Q. Your attention has not been called to any?

A. None has come to my attention.

Q. There may be some?

A. I have answered the question.

Q. There might be?

A. All things are possible.

The Master: Are you reasonably sure that there is not any such variance?

The Witness: My own mind is satisfied that the accounts are correct as shown.

The Master: That is all we can get, what you believe and what you are willing to say.

Q. Is every item in your schedule of additions to manufacturing plant, Exhibit 185, an addition as de- 18656
fined by the uniform system of accounts?

A. Yes.

Q. Will you please describe the method you used to make this certain?

The Master: The schedule?

Mr. Chambers: Yes.

A. I examined the vouchers for the items shown, to see whether they were indicated by the engineering department to be charged to the accounts indicated, and for the purposes as shown, and I have read the uniform system of accounts as prescribed by the Public Service Commission and I do not recall that the accounts as stated by the Consolidated Gas Com- 18657
pany differ from the uniform system of accounts as prescribed by the Public Service Commission as to any differentiation between capital and income.

Q. Can you state that none of the items in this schedule, Exhibit 185, should be charged as repairs?

A. I have relied upon the endorsement of the engineering department of the company as to whether the materials purchased and used were for repairs or whether they were for construction purposes.

Q. So, outside of that information you could not say yourself whether they were?

18658 Arthur W. Teele, Cross.

A. I could not, except as to the general character, Mr. Chambers.

Q. You are not an engineer?

A. I am not an engineer.

Q. Are all the items properly chargeable to capital on this Exhibit 185?

A. I will repeat, I have relied upon the endorsement by the engineering department of the company as to where the accounts described in the vouchers are properly charged.

Q. Are all the items for work done for the Con-
13659 solidated Gas Company all upon property owned by it, to your knowledge?

A. I did not quite follow that.

Q. Are all the items for work done for the Consolidated Gas Company upon property owned by it?

Mr. Ransom: I object to the question as too vague. Does he refer to items of capital additions, or does he refer to items in connection with the operations?

The Master: I understood him to mean with reference to these additions.

Mr. Ransom: He did not so state.

The Master: Well, what do you mean, Mr.
18660 Chambers?

Mr. Chambers: Additions to the manufacturing plant, Exhibit 185.

A. Yes.

Q. All for the Consolidated?

A. For the Consolidated, yes.

Q. How did you ascertain that?

A. By the information furnished in the vouchers.

Q. Is none of the property covered by this schedule in the nature of a replacement or substitution for property withdrawn or retired from service?

A. It may be. If it is, the property so retired is withdrawn.

Q. That is, you mean the schedule may contain a replacement or substitution for property withdrawn or retired from service?

A. I mean that the schedule does contain probably the expenditures made by the company for property which takes the place of other property retired.

Q. Upon what do you base that statement?

A. I base it upon the rule followed by the Consolidated Company in capitalizing its expenditure.

Q. Is there no work for other companies charged 18662
in the list of additions?

A. In the list of additions, as stated, there is work which is charged to other companies. The construction, engineering and superintendence shows the gross amount charged in the account. The schedule of withdrawals shows the amount of that expenditure which has been charged to other companies.

Q. How do you know that every one of your assistants followed out the same rules and principles?

A. I do not know whether they did or not. I believe that they did. My experience with them and the instructions given to them make me conclude that they have. 18663

Q. This does not seem to be paged, this exhibit —or is it? Do you page your schedules?

A. My own is paged, but I do not know whether yours is or not. Ordinarily they are.

Q. Take Exhibit 364. Have you that, Mr. Teele?

The Master: 364 is the 1918 tabulation of cost of production and distribution.

Q. In ascertaining the quantity of generator coal used what plant was that used in—114,000 tons?

A. 21st Street and 99th Street.

Q. Just those two plants?

18664 Arthur W. Teele, Cross.

A. Yes.

Q. What vouchers did you use in ascertaining that quantity of coal, generator coal?

A. I stated that that quantity of coal was taken from the manufacturing reports signed by the superintendents.

Q. You found all of those reports somewhere, did you?

A. Yes.

Q. With the company's records?

A. Yes.

18665 Q. And what did they show—certified by the superintendent as to how many tons he used month by month or day by day, or how?

A. The report for the month of December, 1918, shows the quantity of coal used at the station during the month of December, during the months from January to November 30th, and for the twelve months from January 1st to December 31st. It shows the three different quantities.

Q. Who examined those—did you personally?

A. I personally checked these quantities against those reports.

Q. Where did you get the unit price per ton?

18666 A. By a computation.

Q. From what?

A. Dividing the total amount shown in the amount column by the quantity shown in the quantity column.

Q. Where did you get the amount $762,000 from?

A. From the operating ledger accounts.

Q. Of the Consolidated's books?

A. Yes.

Q. Is that stated in a lump sum like that, or how?

A. It is not. It is stated in two sums. The $762,842.48 is made up of two amounts: On operating

ledger B, folio 565, appears the amount of $640,567.40 as the cost of generator coal at 21st Street station; on operating ledger B, folio 571, under the heading, "Coal, 99th Street Station," appears the amount of $122,275.08. The two added together make $762,842.48 as the cost of the generator coal used at those two stations during the year 1918.

Q. What vouchers did you find for the payment made for coal? Did you find any? You stated now the book entries, the operating ledger entry. Now, did you find any vouchers for those; if so, what?

A. If you will be a little more specific in your 18668
question, I will try to answer it.

Q. You said you found some book entries making up the amount of $762,842.48?

A. Yes.

Q. What else did you find? Did you find any vouchers for that payment?

A. Do you want to know how that amount is arrived at in the books of the company?

Q. I assume you said you found that in the books.

A. No, you asked me where it came from and I told you where it came from. Those two amounts appear on the operating ledger at the folios indicated.

Q. Now, I want to know are there any vouchers 18669
supporting that entry?

A. There are.

Q. What vouchers are those?

A. The vouchers for coal purchased during the year 1918.

Q. What kind of vouchers—from the coal company's receipts?

Mr Goetz: I object to that. That has already been gone over in connection with the operating statement for 1918.

The Master: I think I will permit it.

Q. What were they; what kind of vouchers, from the coal companies?

A. Yes.

Q. Receipts for payment?

A. No, not receipts for payment, but invoices of coal sold to the Consolidated Gas Company during the year 1918; also there enters into the cost of that coal the labor of handling it, the demurrage charges on coal delivered to the Consolidated Company, and the inventories at the beginning and end of the year enter into the compatation.

18671 Q. Where did you get the labor charge from for handling?

A. From the pay rolls.

Q. How were you able to pick that out?

A. Because the labor chargeable against coal or the handling of coal at any station is designated upon the distribution of the station pay roll for every month in the year.

Q. Were there vouchers for that?

A. What do you mean by "vouchers for that"?

Q. A report by the superintendent?

A. Yes, every station employee's weekly time card indicates the work upon which he is engaged during

18672 the week. The account number is indicated in the classification of the accounts for the station, the work upon which the man was engaged is shown.

Q. You mean it would show whether he was handling generator coal?

A. It shows whether he is handling generator coal, whether he is handling boiler coal, whether he is handling coal to storage.

Q. Now, the coke, generator coke. That was for those two stations only?

A. That was for those two stations only.

Q. Now, the number of pounds, where did you get that information from?

A. From the station reports, 21st and 99th Streets.

Q. Signed by the superintendents?

A. Signed by the superintendents.

Q. Did it show the coke that they used for fuel, or is this exclusive of that?

A. This is the generator coke, not the boiler coke.

Q. Generator coke only?

A. Yes.

Q. Used in generators, is that it?

A. Yes. 18674

Q. Where did you get the price of $18,406.99 from?

A. That is not a price.

Q. It is the amount?

A. $18,406.99 is the sum of two figures. In Operating Ledger B, folio 565, under the heading of 21st Street is $15,658.22, the cost of coke in 1918; and in Operating Ledger B, folio 571, under the heading "99th Street Station," is the cost of generator coke used at that station, $2,748.77; that is a total of $18,406.99.

Q. Do you mean you found in the operating ledger the price per pound for the coke they used? 18675

A. That is not what I said.

Q. Well, I don't just understand who fixes the price of the coke that they used?

A. You didn't ask me the question.

Q. Who did?

A. Who did fix the price?

Q. Yes.

A. The price is fixed by the invoices.

Q. Was this coke that they bought outside, or coke that they obtained themselves?

A. That is the cost of coke shown in the amount column, the result of the compilation of that account.

starting with the inventory, adding to it the coal purchased during the year, together with the labor and other costs of handling the coke, less the inventory on hand at the end of the year. That results in a net balance at the two stations, and the sums aggregate $80,406.09.

Q. What page of the operating ledger did you give us?

A. Operating Ledger B, folio 565.

Q. What was the other page?

A. 571.

18677 Q. Will you please state the sums you used again? We don't seem to get our figures for those two stations. First, take coal. What is in on coal for the 99th Street station, as separated from the 21st Street station?

A. What do you mean, generator coal?

Q. Yes, for the 99th Street station?

A. Generator coal for the 99th Street station, on Operating Ledger B, folio 571, you will find that the figure appearing in the ledger is $134,775.09, which includes the cost of handling of $12,500.01. The cost of the coal is $122,275.08.

18678 Q. You included in that figure the handling, so you used $134,775.09?

A. In this statement I have included the cost of handling at a separate point. If you will drop down three or four items you will find I have included labor, cartage, etc., handling, everything outside of invoice cost, as a separate item.

Q. What amount did you use for generator coal as against the $134,775.09?

A. $122,265.08.

Q. Where did you get that?

A. That is the total cost of the coal with the cost of handling, $12,500.01, taken out separately.

Q. You took the $134,775.09 and deducted therefrom the item of labor appearing at folio 570?

A. The cost of handling, $12,500.01.

Q. Where does it appear here as the cost of handling?

A. It is the aggregate of the columns giving the items of expense, the cost of handling coal.

Q. I don't see any item that says "Handling Coal" here?

A. What you do see is an item of labor, cartage, and an item of demurrage.

Q. Well, then, you used—show us here what you 18680
used, show us what you used on the handling?

A. This figure appearing on folio 571, the cost of generator coal, includes the invoice cost, plus the labor and cartage and demurrage charges on the coal into the 21st Street station, which are all charged into the coal stock account, and from which the cost of the coal used each month is taken and transferred to the account to which this refers, folio 571.

Q. I do not understand yet at all where you get the $762,842.48 from the operating ledger here, what sums you used?

A. Folio 571 shows the total cost of the generator coal during the year 1918. That total cost of gen- 18681
erator coal, $134,775.09, includes the original invoice cost of coal, plus the expense of handling it, labor, cartage and demurrage, all of which charges are shown in the coal account at the 99th Street station.

Q. Then you used that $134,775.09, did you?

A. I used the $134,775.09 after having the monthly figures analyzed so as to separate the invoice cost of the coal from the other charges in connection with the handling of it.

Q. What did you take out of that?

A. Labor, cartage and demurrage charges.

Q. I mean the amounts, tell us the amounts and where you found them. It is clear that you used the $134,775.09, and out of that you took these charges I would like to get that amount?

A. The coal purchased each month for the 99th Street station, or received at the 99th Street station, is charged to the coal account, 99th Street station. The labor in handling the coal at the 99th Street station each month is indicated by the pay rolls as charged to the coal, 99th Street station account. The expense of cartage on coal each month is charged
18683 to the 99th Street station coal account. The demurrage on coal received each month is charged against the 99th Street station coal account. The total cost of the coal, or the average cost of the coal each month is determined from the coal account as credited to the coal account and charged to the account of gas production, generator coal; and in separating for the purposes of this statement, I separated the invoice cost from the other costs as indicated in each monthly journal entry shown by the account, gas production 99th Street station, so that the item of $134,775.09 is made up of 12 monthly items, each monthly item being made of the element of invoice cost, labor, cartage
18684 and demurrage; and I have separated invoice cost from the other three items for the 12 months, and aggregated the invoice cost, and aggregated the other three items arriving at the cost of generator coal used at the 99th Street station in 1918.

Q. That is all very well, but what sums are there to take from the $134,775.09?

A. Deduct $12,500.01.

Q. Where did you get that $12,500.01?

A. That is the aggregate of these items which I separated from the invoice cost.

Q. Aggregate of the items appearing on page 331 of Exhibit 191?

A. No.

Q. That $12,500.01, you say is made up of so much a month?

A. It is made up of the labor, cartage and demurrage charges each month.

Q. Will you find that on this operating ledger, the total amount of those charges for cartage, etc.?

A. I cannot find the total amount; I can't find the items.

Q. Show me where they are on the operating ledger, 18686
so I can identify them. I will add them together.

A. The entries for the month of December—

Q. Give them to me one by one.

A. You want to aggregate them?

Q. Yes, I want to show how you arrived at these figures. Are they in the Ledger, Exhibit 190? You are using another book I see?

A. I am using the operating journal, the entries of which are posted in the ledger.

Q. Now, I wanted them out of this ledger?

A. Well, you won't get them out of that ledger.

Q. Because they are not there?

A. Because the identical figure is not there, but a 18687
composite figure is there.

Q. What is the composite figure? The composite figure will be found where in this Exhibit 190?

A. General fuel.

Q. It comes under generator fuel?

A. Yes, sir. I shall have to ask you to allow me to make up the details of that. I thought I had the details here, but I have not.

Q. You see what I would like to have?

A. I have personally checked only the totals of it

with the totals appearing on the ledger account, and the details of it I have not personally checked.

Mr. Chambers: I suggest then that we adjourn and have Mr. Teele be ready to furnish us the details in all these different items.

The Master: I am not going to adjourn every time we strike a snag. Go on to something else and get it tomorrow.

Mr. Chambers: If he cannot give me that, we cannot go on. We want to analyze these figures and see how he proceeded.

18689 The Witness: We proceeded by taking the totals of the quantity shown and checking against the manufacturing reports, and the total costs I took from the operating ledger.

Q. I know, but in that 134,000—

A. I have those items separated so as to show the cost of handling separate from the invoice cost.

Q. It ought to be so plain that I, who do not understand bookkeeping, could follow you and examine you. I mean you ought to be able to point out that you took this sum and this sum and this sum, and it makes this, if it is from the books.

Mr. Ransom: There is no requirement that
18690 anything like that should be so plain that a person who knows nothing about bookkeeping could understand it.

Mr. O'Brien: There is an apparent error here, and Mr. Teele is unable to explain it.

Mr. Ransom: There is no error at all.

Mr. O'Brien: He said $134,000 was the total amount for the year 1918, for invoice price of coal, plus the cost of handling it, and he said he got that from the operating ledger, and it is not in the operating ledger.

The Witness: It is there.

Mr. O'Brien: He cannot verify his figure on that by going to the several columns of that account, and I defy him to do it. What he is depending upon and trying to reconcile here, your Honor, is a journal entry where they have taken in this clearing house called a journal, they have made certain distributions that are predicated upon a statistical report made by the statistical department. Now, we might as well have it understood, because when he is going to be cross-examined, he is going to give us the sources of the figures on these schedules. 18692

Mr. Ransom: If the so-called statistical representatives of the defendants would come to the court they would tell Mr. Chambers and Mr. O'Brien that these figures are correct.

Mr. O'Brien: There is a very simple question asked him, as to where he got the combined figure for generator fuel in this exhibit. He says it is made up, it is a total of the generator fuel for 99th Street and 21st Street. He is asked to give the separate figures to make up that sum, and he proceeds to give some answer. Your Honor, he says that one of the sums that makes up that total is $134,000 for the 99th Street station, and when it comes to ask him about that he said, why, that $134,000 there as shown in the operating ledger, page 573, or the 99th Street station includes the cost of handling, but he is asked to give us the elements that make up the twelve odd thousand dollars that he says covers the cost of handling, and he cannot do it, and he cannot give us the sources of the information. He said, first he said—he went to the journal entry, your Honor, and tried to find it there, 18693

then he comes back to the operating ledger and he is asked to give us the detail there on which the $12,000 is made up, and he said it is the sum of all of these payments that are on that ledger, and if he adds on page 570, the total of the ledger payments there, he won't get $12,000.

Mr. Ransom: Mr. O'Brien thinks he knows something about bookkeeping.

Mr. O'Brien: Well, I will show you a few things before I get through, about bookkeeping, Judge. I do not assert this—

18695 Mr. Ransom: Mr. Chambers may be ignorant of bookkeeping, but he don't need you to come to his rescue now.

Mr. Chambers: I am obliged to him for it.

Mr. O'Brien: Mr. Chambers will take care of himself.

The Master: Judge Ransom, I have permitted this to go on *ad lib.*, just to show you how much time is wasted unnecessarily by your interjecting a remark.

Mr. Ransom: I know it, and I apologize.

The Master: That is just why I let it go, and I meant to let it go to the end of the session if

18696 necessary.

Mr. Chambers: We want to know how you arrived at $762,848.48.

Mr. Ransom: I object to the doing of that, taking up the time with that sort of thing here.

The Master: That objection will be overruled. I think that is very proper cross-examination for Mr. Chambers to ask Mr. Teele to justify a figure that he gives.

Mr. Ransom: I have no objection to him verifying typical figures, but this suggestion that

the computation of each of these items should be made here in court—

Mr. Chambers: I will have to go right through it.

The Master: Mr. Teele should have been prepared to justify his figures and know just where to put his hands on it; if it takes computation, we will have to do it in order to satisfy the record that Mr. Teele is not just guessing at figures and knows what he is talking about.

The Witness: Mr. Gilbert, in order to make this separation I will have to have papers that 18698
are not here. The entry to which the amount appearing on the ledger, folio 571, refers, is the journal entries as distributing the cost of material used in gas production, and the figures used in the gas production entry is a summation of the invoice cost of coal used plus the labor and other charges distributed to it through the means of a compilation made in the office of the company where the invoice cost and the labor cost each month expended upon the handling of generator coal and boiler coal and other expenses are brought together each month, and I will have to refer back to those in order to make this separa- 18699
tion and identify the separation. I thought I could do it from this journal entry, but I find I cannot.

The Master: Well, then, we will adjourn until 9:15 tomorrow morning.

The Witness: It refers back to the entry which Mr. O'Brien said was statistical information. It is not. It is compiled in the statistical department, but it is the information which is the foundation of the journal entries.

Mr. O'Brien: Won't you read that heading off, Mr. Teele, so we will both be—

The Master: Don't pay any attention to anybody but me for a second. You will bring down here or have brought down here, tomorrow morning, all of the documents, the vouchers and every book and record which will relate to this inquiry of this subject matter.

The Witness: Yes, sir. This question of generator coal, or gas production material—gas production material, all of it, will be covered by
1870 those papers.

The Master: Have down here everything that you want or that you believe that you will need to refer to to justify the figures you have got in these schedules, if it takes the whole court room full, bring them down.

Adjourned until tomorrow at 9:15 A. M.

Last Complainant's Exhibit 369.
Last Defendants' Exhibit ZZ.

1870

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 18703

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 12, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILLAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 18704
MR. O'BRIEN, of Counsel for defendant Swann.

ARTHUR W. TEELE, resumed the stand.

CROSS-EXAMINATION CONTINUED BY MR. CHAMBERS:

The Master: The question under discussion when we closed last night was where Mr. Teele got the $12,500.01.

Mr. Chambers: Yes.

The Master: Can you tell us, Mr. Teele?

The Witness: The question as to what?

The Master: Where you got the $12,500.01. 18705

The Witness: Yes, sir.

The Master: Answer that.

Mr. Chambers: I guess we had better have the book (producing book).

Q. Will you please state where you got that sum from?

A. $12,500.01 is a part of $134,775.09 appearing on folio 571, Ledger B.

Q. You showed us that yesterday.

The Master: Yes, we had it yesterday. Where do you get that $12,500.01? Where do we find that; where does it come from?

A. Exhibit 364 to which we were referring shows the total cost of the water gas fuel of $1,276,486.34, which is the aggregate of the amounts appearing on folios 564 and 570, being the cost of the boiler fuel and generator fuel used at the 21st Street and 99th Street stations.

The Master: Give us that slowly again. You said on Exhibit 364 we would find what?

18707 The Witness: We would find the first total of water gas fuel, $1,276,486.34, and that is the total of the accounts appearing on folios 564 and 570, being the cost of boiler fuel and generator fuel at the 21st Street station and the boiler fuel and generator fuel at the 99th Street station.

The Master: Well, it also includes labor, cartage and handling.

The Witness: That is the cost of the fuel to the company.

Q. Does it include labor, cartage and handling.

The Master: Wait a minute, I am trying to

18708 find this $12,500.01.

Mr. Chambers: He has got away from the question.

The Master: No, he has not.

Mr. O'Brien: He got away from the question he was asked yesterday, about that $762,842.

The Master: I am asking him now about the $12,500.01 item that this session closed with yesterday and that he could not locate. That is what I am talking about now, not something else.

Mr. Chambers: That is part of the first one; that is the trouble.

The Master: I am asking him the question as to how he located the $12,500.01, and I understand he is telling me.

The Witness: I am, if you will allow me to finish my answer.

The Master: Go ahead.

The Witness: When this statement was made up I endeavored to set out the invoice cost of the materials separate from the expenses in relation thereto, and in order to do that I had to analyze the underlying entries of these fuel accounts. 18710

The Master: You had to analyze the fuel account?

The Witness: I had to analyze the fuel accounts and the cost of the generator fuel at 99th street appears on the ledgers at $134,775.09.

Q. I find that.

A. In order to show what that was made up of I referred back to the journal entries and I had the underlying data analyzed, and the analysis of that underlying—

Q. (Interposing.) What underlying data?

A. Will you wait, please, until I finish my answer, and then you can ask me any questions you please. 18711

Q. I want to know what underlying data.

A. Wait until I get through, then you can ask me. I analyzed the underlying data of the various journal entries which accumulated to the total of $134,775.09. The analysis of that underlying data shows that there was transferred from the coal account, the coal stock account, to the cost of generator fuel used at 99th Street station, the invoice cost of $122,275.08, carrying with it expenses apportioned to that coal amounting to $12,500.01. The items entering into this make-

up of $134,775 taken from the working papers underlying the journal entries made each month, charging gas production and crediting the various accounts for material, are transferred to the cost of gas production and there is the complete analysis of all the entries.

Q. I do not understand yet where you got the $12,500.01?

The Master: Can you make it any clearer to Mr. Chambers than you have already made it?

The Witness: I will try to.

18713 A. The $134,775.09, as I said, is made up of these elements, the invoice cost, labor on coal storage, labor on coal to generator house, cartage to storage, and demurrage, the total expense items aggregating $12,500.01.

Q. Where did you get these?

A. I got these by analyzing the papers underlying the respective monthly journal entries, which charge gas production and credit the various accounts.

The Master: It is not in the journal.

The Witness: It is not in the journal.

The Master: Can't you understand when a

18714 man tells you something?

The Witness: The man who had made the journal entry had the computation.

Mr. O'Brien: He had statistical data; that is what the journal says.

The Master: All right, that is where it is.

Mr. O'Brien: There is no reference in the journal to where that is.

Q. The invoice cost that goes into that $12,500.01 —what was that?

A. What do you mean, what was it?

Q. You said that $12,500.01 was made up of invoice cost. That is all I got.

A. $122,275.08 and the other expenses $12,500.01, making the aggregate of $134,775.09 shown on that account.

Q. No, you misunderstood me. I want to know what part of the $12,500.01 is made up of the invoice cost?

The Master: The trouble is you do not know what you are talking about.

Mr. Chambers: I ask him to explain where he got the $12,500.01 and he proceeded and said that was made up from invoice cost.

The Master: The invoice cost of $122,000 18716
odd and additional items to the invoice cost.

Q. Will you give me the items that made up the $12,500.01?

The Master: He has given you that. Objection sustained.

Mr. Chambers: He has given it to me? Will the stenographer go back and read that?

The Master: No, I will not permit it. It takes up too much time. Have you got the figures segregated?

The Witness: Yes, I can give you the total of all the elements.

The Master: Give us that. 18717

Mr. O'Brien: Here lies the question, whether he is going to extraneous books.

The Master: That is an entirely different question. Can't you understand when you bring out from the witness that he got it from statistical records, that that ends it? Do you have to argue it for an hour?

Mr. O'Brien: We want to find out where it came from and where those records are.

The Master: But he has told you that.

18718 Arthur W. Teele, Cross.

Mr. Chambers: He did not tell me the different items that make up the $12,500.01.

The Master: Do you want the different items? I am going to let him give it to you.

The Witness: It is made up of labor on coal to storage $2,390.36, labor on coal to generator house $7,202.01, cartage charges on coal to storage $2,430.30 and demurrage charges $477.34, those four items aggregating $12,500.01.

Q. Those four items you say you found in some
18719 data outside of Ledger B and the operating journal?

Mr. Goetz: Objected to.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. What kind of data was it that you used in ascertaining those four items?

Mr. Vilas: Same objection.

The Master: Objection sustained.

Q. Where may that data be found?

Mr. Vilas: The same objection.

The Master: Those last three questions have been objected to and the objections sustained on the ground that they have already been answered,
18720 if you had listened.

Mr. Chambers: Can I ask where that is?

The Master: You can read the record.

Mr. Chambers: I do not think he said where he found them.

The Master: Yes, he did.

Mr. Chambers: Will your Honor tell me?

The Master: No, the record will show.

Mr. Goetz: The papers have been in their hands for months, the very sheets they are referring to.

Q. Did you find them in the 90th Street station?

Mr. Goetz: Same objection.

The Master: Objection sustained.

Q. Were they signed by anybody?

Mr. Goetz: Same objection.

The Master: Same ruling.

Q. You then deducted the $12,501 that you described from the $134,775.09, did you?

A. What do you mean, I deducted it.

Q. You told me yesterday you subtracted the $12,501 from the $134,775.09.

A. I analyzed the accounts aggregating $1,276,486.34 for the purpose of setting out the cost 18722
of the several elements as stated on this sheet, and I have tried to explain to you how I arrived at those figures, by analyzing the underlying data.

Q. All I want to know is how you arrived at that figure of $762,842?

A. I don't know whether I deducted it from $134,000, or whether I set the other figures down first and added the two together.

Q. Well, if you deducted it, that made $122,274.09. Is that a sum that you used?

The Master: Objection sustained.

Q. What did you use as to the 21st Street station, what part of that $762,842.48? 18723

The Master: Is that Exhibit 364?

Mr. Chambers: Yes, sir, 364.

By the Master:

Q. Mr. Teele, you have your working papers there?

A. I have.

Q. Will they show the computation from which you got $762,842.48?

A. They do.

Q. Just read it off to us, will you?

A. It is already in the record.

Q. Just read the computation?

A. $762,842.48 is made up of two items, $122,275.08.

Q. Representing what?

A. Representing the cost of fuel, generator fuel, at—

Q. At 99th Street station?

A. 99th Street station.

Q. That is the figure you have already explained?

A. Yes, sir.

Q. Plus $12,000 makes $134,000?

18725 A. It does.

Q. The next item?

A. $640,567.40.

Q. Yes.

A. Cost of the fuel at the 21st Street station.

Q. Yes.

A. That, together with labor and handling charges aggregating $50,620.39, makes a total of $691,187.79, which appears in operating ledger B on folio 565.

Q. That $50,000 corresponds to the $12,000 item?

A. It does.

Q. And you arrived at that $50,000 item in the same way you did the $12,000 item?

18726 A. Yes.

Q. And you got that $50,000 item from the work sheets on which the journal entry was made?

A. I did.

Q. And that is a calculation made by somebody in the accounting department, it is not based on invoices or anything of that sort, but it is a calculation made, isn't it—the work sheets on which the journal entry is made?

A. It is a calculation which is based upon original invoices.

Q. The pay roll sheets and things of that sort?

A. The pay rolls, the station reports and invoices for demurrage charges.

Q. But it is a calculation?

A. It is a calculation made in the accounting department of the company to determine the cost of the tons of coal used in the various operations.

The Master: Is there anything else you want on that?

Mr. Chambers: Yes. I say it respectfully, but you took that right away from me, and I am unable to follow it. What I want to find out is, we find here on the 21st Street station for 18728
coal, which includes labor, $691,187.79.

The Master: That is the figure Mr. Teele gave me, isn't it?

The Witness: Yes, sir.

The Master: Go ahead. What is your complaint?

Mr. Chambers: From that you deduct—

The Master: $50,620.39.

Mr. Chambers: What are the details?

The Master: That leaves $640,567.40. That is correct, isn't it?

The Witness: Yes, sir.

Mr. Chambers: Now, you asked him if he got 18729
the $50,620.39 in the same way that he got the $12,500.01. I want to know where he got them from.

The Master: He has already answered that: from the work sheets.

Mr. Chambers: What are the work sheets?

The Master: I have asked him that, if you would only listen.

Mr. Chambers: All right.

Mr. O'Brien: We have a right to go into that, your Honor.

Mr. Chambers: I want to know what that data is, so that we can go and look at it.

The Master: The Master rules that there will be no more cross-examination on these two items, because the Master says the record is complete upon that subject and entirely clear to him, even though it may not be so to counsel. Now, what is the use arguing.

Mr. O'Brien: Your Honor, we have an account here, and you want to be enlightened—

The Master (interrupting): If I did not think
18731 it was perfectly clear I would ask for more light. But at the expense of spending another minute or two, every one of which is valuable these days in this case, let me summarize it. The witness says, "I found in the ledger one hundred and thirty odd thousand dollars cost of coal at 99th Street; I found in the ledger $691,000 cost of coal at 21st Street. I wanted to analyze it to see how it was made up. I went back to the original records and I found invoices for coal; I also found there were pay rolls for labor, also demurrage charges. Now, I also found that there was a journal entry which set up the amount
18732 of demurrage, coal handling and the cost of it under a separate item, and I found that that journal entry was based upon a tabulation or statistical record, as Mr. O'Brien calls it, which is a summarization of the figures appearing on the pay roll sheets, demurrage charge vouchers and other things. So that, when I take $12,000 away from one item and $50,000 away from another, I tell you that I took them from the journal, and when you ask me where the journal got them from, and how I checked the journal I looked at the work sheet, which you will find in

18733

their office which gives the specific items which I have given you here; and when you ask where the man who made the work sheet got his from, I tell you he got them from pay rolls and the invoices for demurrage and the like." Now, the record is as clear as a bell on it, and there is no use wasting any more time. Have I stated it correctly?

The Witness: Correctly.

Mr. O'Brien: Your Honor, here is what will follow now, if we are allowed to go ahead there.

The Master: Don't tell me what will follow. 18734

Mr. O'Brien: In the first place, presumably there is an account coal storage in this book, this operating ledger. It is not only the invoice cost of the coal, but the cost of handling it. The natural inquiry on his statement now on the record would be, aren't those figures all set up that way in the operating ledger? If you will bear in mind, your Honor, that the witness started with saying first as to this item that "I got that out of the ledger." Now, another natural inquiry that would come, and I insist is proper cross-examination for Brother Chambers to indulge in, and that is this: Didn't he depend en- 18735 tirely upon the journals, as he said he did yesterday when he ran to it as a life preserver to explain this account, and doesn't this journal entry, when it is pointed out, set forth the specific data, and doesn't it refer to some other books of account? Now, there were questions asked, that in maybe ten questions will make that record complete and bear out what we are contending.

The Master: The Master rules there will be no further question on these two items. Proceed to the next item.

Mr. Chambers: I say for the purpose of the record that I would like to ask him a number of questions on these items which I think is proper cross-examination, and except to the Master's ruling. If you shut us out entirely, we will have to sit down, but it seems to me we are justified in making this man give us the details of his figures. For instance, I want to ask him if the $50,620.39 may be found in this Exhibit 191, and where.

The Master: I won't allow any more questions
18737 on those two items.

Mr. Chambers: I will take an exception.

The Master: Proceed to the next item. You have on these exhibits approximately several hundred items and if we are going to take one day on each item, we will be in this case the rest of our lives, and I won't do it.

Mr. Chambers: I don't think we ought to be penalized because they have shoved in evidence here this great long tabulation, do you?

The Master: No.

Mr. Chambers: Then I think we ought—

The Master: But the complainant must not
18738 be penalized because they deemed it necessary to put in the tabulation.

Mr. Chambers: Well, they just slapped in the exhibits.

Mr. O'Brien: That was only presented at yesterday's session, and Mr. Chambers was forced right into cross-examination right immediately thereafter, without fifteen minutes for preparation.

The Master: Just for the purpose of the record, and just to indicate to you how entirely unfair that is to the Master, Mr. Chambers has

18739

had two months, if not more, to cross-examine Mr. Teele about Schedule 205 and Schedule 355.

Mr. O'Brien: He is not on that, he is on a schedule—

The Master (interrupting): Will you listen to me? Mr. Chambers could have given this Exhibit 364 to his experts, had it analyzed long before he was through with his cross-examination of this witness on 205 and 355, and there was no necessity in the world for going right to this Exhibit 364 at that time. Now, go ahead.

18740

Mr. Chambers: Well, our experts are working on other things now.

The Master: Next question.

By Mr. Chambers:

Q. Now, the generator coke, where do you get the $18,406.99 from?

The Master: Now, as to each of these questions, Mr. Teele, I want you to get your working papers, and I want you to tell us in detail just how you arrived at these figures, so that you make a complete story.

Mr. Chambers: And where it may be found.

The Master: Where it may be found. Each particular item going into it, what it is and how much it is. Do you get my point?

18741

The Witness: I think so. May I ask for information, your Honor? Each of these figures, of course, is a compilation of the monthly figures.

The Master: Yes.

The Witness: I assume that if I explain the composition of one monthly figure, which illustrates the process in the twelve monthly figures, it will answer your question.

The Master: What I want is as complete a statement as possible, showing just how you arrived at the amount set forth on Exhibit 364, $18,406.99.

The Witness: I have pursued the same method of analysis with regard to each one of these items.

The Master: Give the figures, where does it start from, where does it come from, and where will it be found?

Mr. O'Brien: But your Honor, isn't it proper
18743 to ask the witness such questions as will bring out in cross-examination whether he knows anything about these things or whether he is going to read off something that somebody else prepared?

The Master: The Master understands perfectly, and anybody with any practical experience should likewise understand perfectly, that Mr. Teele as the head of an accounting force could not, if he tried, tell me that he personally made up every figure and every tabulation. These figures have been brought to him from twenty or thirty different men. He has told his
18744 men how to tabulate them; he has told them how to gather them together; he has supervised them; he has gotten their statements, and he, as the head of this force, being the only man who can talk for them all, is reading off the statement that he has prepared as the result of all this calculation and conference. Now, let us be reasonable about these things.

Mr. O'Brien: Now, you broke in on my statement.

The Master: This is not a Municipal Court case involving 47 cents' worth of pants or something like that.

Mr. O'Brien: I was just about to say, when your Honor interrupted me, that we have the right to put the questions and answers to this witness, and that he ought not to be allowed simply to make a long statement *ad lib.* and then close it up, that is the point—

The Master: Well, the Master will—

Mr. O'Brien (interrupting): We want the questions and answers as cross-examination.

The Master: The Master will do the best he can with reference to it, but this case has got to speed up, and I will not permit one ques- 18746
tion that I think we can do without. Tell us how you got $18,406.99, the way you got it and where counsel and their experts can look at it.

A. $18,406.99 is the sum of two items, 21st Street station, $15,658.22—

By the Master:

Q. For what?

A. For the invoice cost of coke as contained in the sum of $17,233.58 appearing on ledger B, folio 565.

Q. Give me those two items again?

A. $15,658.22 is the invoice cost of coke. The 18747
cost of handling is $1,575.36; the aggregate is $17,233.58.

The other item is the cost of coke at the 99th Street station, $2,748.77; cost of handling $324.58. This is included in the $72,366.81 of labor, cartage, etc., that makes the aggregate appearing on ledger B, folio 571 of $3,073.35.

Q. Those two together make something over $20,000?

A. The two together are something over $20,000.

Q. Now, you have deducted from that total that $1,575.36?

18748 Arthur W. Teele, Cross.

A. I have separated from the two figures appearing on the ledger the cost of handling both at 21st Street and at 99th Street, leaving the cost of the coke $18,408.99.

Q. Just to satisfy Mr. Chambers, give me the cost of handling at 21st Street again.

A. $1,575.36.

Q. And at 99th Street?

A. $324.58.

Q. Now, analyze the $1,575.36 as it appears on the journal and the working sheet. Of course the ex-
18749 perts for the defendants could do this just as well as you can?

A. Absolutely as well, and they have been doing it. They have been checking these figures since they have had them. They could analyze the figures in the journal and obtain the same result that I have obtained.

Q. Now, give me the $1,575.36 segregated?

A. The $1,575.36 is made up of the following items: Labor on coke to storage, $486.90; labor on coke to generator house, $704.96; cartage on coke to generator house, $383.50; total, $1,575.36.

Q. Now, have you got the $324.58 handy?

18750 A. In order that it may be clear, and that no question may be raised in regard to the designation which I have made here as "Labor to storage"—

Mr. O'Brien: I object to the voluntary statement of the witness.

The Master: Objection overruled. Make it clear.

A. I have said here that the charge was on "Labor to storage." That is that portion of the labor which is charged to storage, that is what was charged to the cost of the coke going to the generator house, because part of the coke has come out of the coke

that went to storage. In other words, the labor which is charged at the station is charged on coke going to storage, and also on coke that goes direct to the generator house. Consequently, if the coke comes from storage, having first gone to storage and then to the generator house, it takes its proportion of the labor to storage.

By Mr. Chambers:

Q. Where did you get the information which you have just given?

A. By studying the underlying papers.

Q. What underlying papers did you study? 18752

A. The working sheets underlying the journal entries from which this analysis was made.

Q. I do not understand what you mean by working papers?

The Master: The Master does.

By the Master:

Q. Analyze the $324.58, and then I will discuss it with Mr. Chambers.

Mr. Goetz: The working papers are here in court.

The Master: They are here in court?

Mr. Goetz: Yes, taken from the files of the company. 18753

The Master: Let us have them, the working papers which will show for instance this $1,575.36 the item that Mr. Teele has just told us about.

A. The $324.58 is made of the following items: Labor to storage, $71.61; labor to generator house, $178.50; cartage to storage, $74.77; total, $324.58.

Q. You got that from the journal?

A. I got it from the underlying papers supporting the journal entry.

Q. That is the work sheets?

A. The work sheets.

18754 Arthur W. Teele, Cross.

Q. Have you the work sheets for that or the $1,575.36 handy?

A. The work sheets entering into the figures which I have given are composed of twelve monthly work sheets.

Q. Are they here?

A. They are here.

Q. Let us have them.

Mr. O'Brien: Will your Honor kindly have them marked for identification?

Q. Mr. Teele, answering the inquiry as to the work
18755 sheets from which we can find the $324.58, you have first handed us some sheets marked "Materials used in manufacturing during the month of December, 1918."

A. Yes.

Q. Is that one of the work sheets to which you referred?

A. That is one of the work sheets. It is known as "Gas Production Sheet."

Q. The cover of which is marked, "Gas Production, December, 1918"?

A. Yes, sir.

The Master: Just mark that for identification.

18756 Statement marked Complainant's Exhibit 370 for identification.

Q. You have also handed me some sheets endorsed, "Gas Production Statistics, 99th Street station, month of December, 1918"?

A. I have.

The Master: Mark that for identification.

Paper marked Complainant's Exhibit 371 for identification.

Q. Now, as I understand your statement, in separating the items as you have you referred to Exhibits 370 and 371 for identification.

A. Yes.

Q. Are these kept monthly or daily or how?

A. They are made up monthly.

Q. In lead pencil or in ink?

A. In lead pencil.

Q. Do you know who the man is who keeps these?

A. They are in the Accounting Department under the direction of Mr. Nickerson, I believe.

Q. One of the subdivisions of Exhibit 371 for identification is, "Total Coke and Breeze"; again, subdivided, "Total used in Generator House"; and "Total used under Boilers"?

A. Yes. 18758

Q. And in different columns it shows—then we have some subdivisions, "Pay Roll, Labor and Cartage"?

A. Yes.

Q. And they are subdivided into columns, "To Storage, To Generator House," and then, "Cartage to Storage, Generator House," and so on?

A. Yes.

Q. On this Exhibit 371 for identification you point out that the amount used in the generator—is that for December or for the whole year?

A. That is for the month of December.

Q. $2,226.32 to generator house; and under the 18759 boilers, $771.32?

A. Right.

Q. And the amount of pay roll to storage was $64.11 for generators and $370 under the boilers?

A. That is right.

Q. And the amount of pay roll labor, coke used in generator house, was $165.70?

A. Yes, sir.

Q. And then cartage for coke used in generator house, $65.98?

A. Right.

18760 Arthur W. Teele, Cross.

Q. And then coke used under the boilers, $117.70?

A. Right.

Q. Did you go back of this Exhibit 371 to check these figures?

A. I did.

Q. To what did you go?

A. I went back in the first instance to the invoices from which this coke was received, and the amount obtained. I went back to the pay roll distribution from which the labor charges are made. That happens to be all there is here. I went back to the cart-
18761 age report for the month. The five sources from which the information put on these monthly work sheets is taken are, the original invoices for coke or material received during the month; the pay roll distribution for the month showing the labor upon the material and the various points; the cartage report showing the amount of cartage employed at the various points; demurrage, or any other expense which might happen to occur during the month. That would come from the invoices. Those are the sources of information from which the data set up on this account is taken.

Q. The last column on this sheet is the total amount
18762 of coke and breeze and the pay roll expense in connection with it, used in the generators, $2,522.11?

A. Yes. Just keep in mind that this is in fact nothing but a stock account.

Mr. O'Brien: The witness put his finger on what?

The Master: On Exhibit 371 for identification.

Mr. O'Brien: Does he mean the whole paper or just a column?

The Witness: The whole paper, practically. There is some other material on it.

Q. The other paper, Gas Production, No. 370 for identification, has on the top of the page, "Material used in manufacture during the month of December, 1918."

A. This work sheet is used by the company not only for determining the cost of material coming out of stock and going into its manufacturing operations, but it bears other information which is used for their own statistical information.

Q. Then that is transferred to Exhibit 370 for identification?

A. They take off the figures necessary to make 18764
the proper journal entries on this.

Q. You mean to Exhibit 370 for identification?

A. To Exhibit 370.

Q. The first page?

A. First page.

Q. And that shows coke, 99th Street generators, average invoice cost $2,226.32?

A. Yes.

Q. Labor, $220.81, cartage $65.98, total $2,522.11?

A. Yes.

Q. Those are the work sheets to which you have been referring?

A. Those are the work sheets that I have been 18765
referring to, and here are my individual check marks on there where I went over them (indicating).

Q. These lead pencil check marks?

A. Yes, and the red ink.

The Master: Do you think there are any other questions you want to ask, that you think are necessary, Mr. Chambers?

Mr. Chambers: Yes, sir, there are a number of them.

Mr. O'Brien: How are you going to shake the witness unless you can get hold of him and shake him?

The Master: What do you think you are doing here?

Mr. O'Brien: Testing the reliability of those records. He is assuming the accuracy of those papers that are in pencil memoranda and not in evidence in this case.

Mr. Vilas: Some of them are in ink.

The Master: Put them in. Do you want them in?

Mr. O'Brien: I won't put them in, no. They have got to sustain their case.

18767 The Master: Have you any objection to the complainant putting them in?

Mr. O'Brien: Any proper paper I will not object to.

Mr. Goetz: The complainant offers those exhibits.

The Master: Do you object to them?

Mr. O'Brien: I certainly object.

The Master: Objection sustained.

Mr. Chambers: I want to cross-examine the man who made them.

The Master: Next question.

By Mr. Chambers:

18768 Q. What did you do with the breeze in regard to that generator coke?

A. It is dealt with the same as coke.

Q. What?

A. It is dealt with the same as coke.

Q. You dealt with it the same as coke?

A. It is coke.

Q. Breeze is coke?

A. Breeze is coke.

Mr. O'Brien: The cheaper kind of coke, though, is it not, Mr. Teele?

Mr. Vilas: I object to that.

The Master: You need not answer that, Mr Teele. Do not answer.

Q. Have you now given all of the figures which make up the $18,406.99?

A. I think I have fully explained it.

The Master: It might be unfortunate for you, Mr. Chambers, that I can follow these things quicker than you can, but that is one of the misfortunes you are under in this case.

Mr. Chambers: Respectfully I say it is unfortunate that counsel cannot go at it in his own way, and I do not think I would take any longer than 18770
you have; but I would then have understood it.

The Master: The important thing here is whether I understand it.

Mr. Chambers: No, it is for our experts. When our experts go on you are going to permit cross-examination of them as to these figures.

The Master: A very limited amount.

Mr. Chambers: As far as I am concerned, I will object to that, and throw the door open, because I think counsel are entitled on either side to compel a witness who gives a tabulation like that to support any figure in it.

The Master: No, the important thing, Mr. 18771
Chambers, is to show how he did it.

Mr. Chambers: What he used, to show you he did it. There are certain things here we expect to throw out if we can show what he used.

The Master: He has shown you what he used for these figures. There is no sense in having him repeat all the figures. When he tells you now when you get to boiler coal, boiler fuel coal, "Here, I did the same thing as I testified about the generator coal," there is no use in having him repeat the figures.

Mr. Chambers: He has not testified to anything definite. He could not do the same thing; it would be impossible.

The Master: Why not?

Mr. Chambers: Because he was dealing with boiler fuel, and then he was dealing with generator coal.

The Master: But the same thing runs through these sheets.

Mr. O'Brien: Will you bear with me a minute while I suggest the line of cross-examination we
18773 are entitled to take up at this point?

Mr. Goetz: Mr. Chambers ought to do the cross-examining.

Mr. O'Brien: You have here before you pencil memoranda that come into the case for the first time, called Statistical Data, Gas Production Statistics, being Complainant's Exhibit No. 370 for identification.

The Master: I am going to change my ruling about that. I am going to allow these in evidence. I am going to allow them to be marked in evidence as part of the records of this company. I will permit any record of this company that either
18774 side wants in.

Mr. Chambers: I have an objection to it.

Mr. O'Brien: I will have an objection to it.

Mr. Chambers: Shall I state it?

The Master: Yes.

Mr. Chambers: On the ground that it is incompetent, irrelevant and immaterial, it is secondary evidence, hearsay, depriving the defendants of the right of cross-examination of the person or persons who made the data. There is no evidence whatever as to who made it, or as to whether it is accurate and correct.

18775

Mr. O'Brien: I further object to it. I am refering particularly to Exhibit 371 for identification. I object to it being admitted on the ground first, it has not been shown who in the company kept this record, whether it is kept under the authority of the officers of the company, whether it comes from Mr. Carter's office or comes from the Accountancy Department.

On the further ground that such a record was not referred to by the witness Brundage, who was called as chief accountant to explain the system of bookkeeping. Thirdly, because it was according 18776
to journal entries which the witness Teele referred to on November 11th the items have been gathered together, the so-called statistical data. There is nothing on these sheets to show where they come from, where the figures come from; they are all kept in pencil writings, which may be changed at any time. There are certain averages in the column called "Average Price," there are certain averages set up concerning which there is no testimony in this case. It is impossible to tell what the prices are.

On the further ground that the average in the "Average Price" column is set up diagonally 18777
across the column and not opposite the particular items that are set forth in the first column to the left. So that it is impossible to determine what the figures in the column "Average Price" refer to.

On the further ground that the witness apparently in taking the figures set forth in these statistical sheets as to Generator Coal and particularly the items under the general heading "Handling Coal," has ignored so far as his testimony shows the accounts in the operating ledgers that cover those particular items.

18778 Arthur W. Teele, Cross.

On the further ground that there are some columns that are not filled in at all. On the further ground that the figures as to Cartage are adjustment figures that are the result of calculations, the factors in which are unknown so far as testimony is concerned: that the demurrage referred to, which runs up into a considerable sum, the witness states was taken from certain vouchers. He does not state what they were.

I make a further general objection to these papers on the ground that the witness has as-
18779 sumed that the figures herein stated are correct, that he has not testified to having made any tests as to their accuracy by comparing them with underlying data. On the further ground that yesterday, when he was asked about the simple figure of one hundred and thirty-four odd thousand for generator coal in the 99th Street station, he immediately went to the Journal and said that he found those figures in the Journal; that the Journal entries covering the cost of gas production for each month would show various items, they are set up under general totals, and do not give the labor, do not give the cost of handl-
18780 ing, and that the witness has entirely resorted to these sheets in pencil handwriting that come from a source unknown so far as the record in this case is concerned.

The Master: Objections overruled.

Mr. O'Brien: That is as to the statistical data, your Honor.

The Master: Objections overruled, and the Exhibits 370 and 371 for identification will be marked in evidence under the same numbers.

Mr. O'Brien: I make the further objection—

The Master: I think you have covered every

ground with reference to those exhibits, have you not?

Mr. O'Brien: Just a minute; there is a last page here, your Honor, that looks mysterious.

The Court: You can find more mystery and suspicion than any lawyer I ever met.

Mr. O'Brien: It deals with water, the last page, with a lot of adjustment figures.

I object to the receipt of Exhibit 370 for identification on the same grounds as already recited with regard to Exhibit 371 for identification, and on the further ground that it has set up here on 18782
the last page the following inscription that is unjustified, unverified, the sources of which have not been shown, the computations for which have not been verified, and it is apparently based upon assumed figures and assumed facts: "Sundries to sundries"—that sounds like to dust to dust, your Honor—"For the value of residuals produced during the month of December, 1918, as per statistical report on file," and then follows the tabulation and "Residuals"—

The Master: Do not read it.

Mr. O'Brien: There are just four items and I might as well put them right in the record. 18783

The Master: No, it is in the record.

Mr. O'Brien: They make up a total of some thousands, your Honor.

The Master: No, I will not let you read it.

Mr. O'Brien: On the further ground, your Honor, in addition to what I have put in my objection to Exhibit 371 for identification, that there is a column here somewhat different from the "Average Price" column of the other exhibits. There is here a column "Average Invoice Cost," and in that column are carried down fig-

ures that amount to $335,000 on the first page alone.

The Master: Do not get into all that. Do not let us waste any more time on that.

Mr. O'Brien: The ground of objection is—

The Master: You have covered everything.

Mr. O'Brien (continuing): The system of averaging has not been explained; we do not know whether the averages were made from month to month, whether the average varied from month to month with the increase in price of coal

18785 whether they were weighted averages or not. I note an exception to your Honor's ruling.

Exhibits 370 and 371 for identification were then marked in evidence Complainant's Exhibits 370 and 371, respectively.

The Master: Next question.

By Mr. Chambers:

Q. Where did you get this unit price from, Mr. Teele, for coke .279?

A. By dividing the cost of the coke by the number of hundred pounds.

Q. Where did you get the cost of the coke from?

A. The amount set down in the column headed

18786 "Amount."

Q. You mean on your exhibit?

A. I mean on my exhibit.

Q. Where did you get that from—$18,466.99?

Mr. Goetz: Objected to. It has been already answered.

The Master: Objection sustained. It has been covered.

Q. You did not see fit to use the figures here in the ledger, $134,775.09 for coal used at the 99th Street station, as it stands in the ledger, did you?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. And you did not see fit to use the figure $624,688.70, found in the ledger for the 21st Street station?

Mr. Goetz: Objected to.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Why was it you did not use these figures?

Mr. Goetz: Objected to.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. You did not use the figure $3,073.35 found in the ledger for coke, did you? 18788

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. And likewise you did not use the figure $17,233.58 for coke used at the 21st Street station?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Did not those four amounts which I have given reflect the cost of coal and coke and the labor in handling same at those two stations?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. The number of pounds, 6,594,160, where did you obtain that from, that sum? 18789

Mr. Goetz: I object. It has already been answered.

The Master: I will allow that. Has he answered that?

Mr. Goetz: He has answered questions in regard to all the columns there.

The Witness: Yes, that has been answered.

A. It was obtained from station reports.

The Master: You got it from the station reports?

The Witness: I did.

18790 Arthur W. Teele, Cross.

Q. Is it found in the operating ledger anywhere?

A. No quantities are shown in the operating ledger.

Q. What is that?

A. No quantities are shown in the operating ledger.

Q. Just amounts only?

A. Yes.

Q. You obtained that for both stations?

A. Yes.

Q. Did you examine them?

A. I checked the quantities here against the station reports.

18791 Q. Have you those here?

A. Yes.

The Master: The station reports.

Q. The station reports?

A. Yes.

The Master: Let us have them.

The Witness: Yes, I have that, Mr. Chambers.

Q. Will you let me see them?

A. Yes (handing papers).

The Master: What are you handing Mr. Chambers?

The Witness: The station report for the month of December of the 99th Street station and

18792 for the 21st Street station.

Mr. Vilas: Called the Record of Manufactures.

Q. And you have the records for the previous months?

A. I have had the manufacturing reports for every month for every station.

Q. This is only a summary for the month other than December?

A. It is the signed station report, I believe, for the month of December.

Q. Yes, signed by the superintendent?

A. And for all the information it contains.

Mr. Goetz: The other monthly reports of the year are also in court.

Q. Why was it you did not take the labor and cartage charges for handling generator coal from the operating ledger as shown for the 21st Street station, as shown on page 177; also the demurrage charge?

A. Because the account to which you have referred in the operating ledger on folio 177 is a stock account to which is charged all of the expense of handling all of the stock which the account covers, and the figures I have used are the figures representing the material coming out of that stock account and going into the 18794
manufacturing operations.

Q. And that is not set up anywhere in this operating ledger separate and distinct?

The Master: Objection sustained.

Q. How do you know that this expense here for labor and cartage and demurrage for handling coal at the 21st Street station relates only to the coal in stock? Where do you get that information from?

A. By an examination of the papers underlying the entries made in that particular account.

Q. Speaking of page 177?

A. Yes, sir.

Q. Did you have the underlying papers that make 18795
up this data for labor handling coal?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. This entry here does not say that it relates only to the stock account?

The Master: Objection sustained.

Q. May you not be mistaken in that, Mr. Teele?

Mr. Goetz: Objected to.

The Master: Objection sustained.

Q. Is it not possible that you have duplicated the charge for labor for handling coal, cartage, etc.?

The Master: Objection sustained.

Mr. Chambers: Your Honor, you do not care to have me go into that?

The Master: No, not on that question.

Mr. Chambers: I would like to.

Q. What proof is there that that relates to that except the bookkeepers?

The Master: I am not going to open a discussion. Next question.

Mr. O'Brien: Will you hear me a minute, your Honor.

The Master: No.

18797 Q. Have you the underlying data?

The Master: I don't want any discussion about it.

Q. Have you the underlying data for that?

Mr. O'Brien: Will I be permitted, your Honor, to take this matter up when I come to cross-examination?

The Master: I don't know. You are going to be permitted to have very little cross-examination when Mr. Chambers gets through. He is covering the situation both from his own ideas and with yours, and there cannot be very much left when he gets through.

18798 Mr. Chambers: If the Master is going to cut him off, there is some question about some item that I am going to skip so there will be a chance for him.

The Master: I am going to limit you and Mr. O'Brien. You called on the witness to produce some papers, to which he referred in getting the coal, didn't you?

Mr. Chambers: I just now asked him—

The Master: Wait a minute.

Mr. Chambers: Yes, I did.

The Master: Now, is there anything further you want to ask him about those two papers?

Mr. Chambers: Well, I would have to study them and I haven't got time now.

The Master: Well, we will just mark them in evidence.

Mr. Vilas: They have been available for study for a month.

The Master: The Master will mark them—

Mr. Goetz: The complainant offers them in evidence.

The Master: Well, we will put it in the form that the complainant makes the offer to have marked in evidence the report of manufacture for 18800
the 99th Street station for December, 1918, and the report of manufacture at the 21st Street works for December, 1918, it being, as I understand it, Mr. Goetz, part of the records of the company which are reflected and used in the general books of account and to which reference is made.

Mr. Goetz: Your Honor is correct. Mr. Brundage has already fully described them.

Mr. O'Brien: Is Mr. Goetz going to take the stand, your Honor?

The Master: Now, I will hear objection to this offer. 18801

Mr. Chambers: The defendant Newton objects to the receipt of these papers upon the following grounds: First, upon the ground that every time we call for a paper here used by the witness in making up his accounts, it seems to us as if we are penalized by having them offered in evidence or marked in evidence, and second—

The Master (interrupting): They are marked in evidence, but you are not penalized.

Mr. Chambers: Whatever we call for now, we seem to be penalized by having them marked in

evidence. That is my first objection. The second objection is that they are incompetent, irrelevant and immaterial, no foundation having been laid at all for their introduction; that is to say, the superintendents whose names are signed on the back thereof, as to one of them his name is Bukhaut, superintendent's assistant, and the other is signed by Barlow, superintendent, are not called for cross-examination.

The Master: Let me tell you, Mr. Chambers, that I do not intend to penalize you at all. There

18803 is no such offer.

Mr. Chambers: Well, every time we call for anything—

The Master (interrupting): No. Here is my theory of it. If Mr. Ransom had brought down here all of the papers that they had, all of the vouchers and all of the records including their books of account, I should have received them all.

Mr. Chambers: Well, then, we would have had an objection.

The Master: Yes, certainly. The same objection that goes to the books of account, goes to

18804 these.

Mr. Chambers: I think this is a different situation than the books of account. Here is a record made by a single man who is living and in their employ, may be produced, may be cross-examined, and it is fatal and vital if the Court wanted to reverse on them or I do not know what the law of this land is. The law says—here is a man that can be produced, who is in the jurisdiction, in their employ, living, who made the exhibit, and there is no rule of law made yet that permits the introduction of such a paper. I do not care

whether is it in the United States District Court, before a Master, or where, there is a law in this land, and there is a rule of evidence—

The Master: I am receiving them.

Mr. Chambers: I know you are.

The Master: As part of the books, records and accounts of this company kept in the ordinary course of business.

Mr. Chambers: It is not a book of account.

The Master: It is a record.

Mr. Chambers: Well, if the Master please, let me warn you that there is no rule in existence 18806
that permits you sitting as a court to allow such a paper in evidence.

The Master: Then I am making a new rule.

Mr. Chambers: I see you are, and I am excepting, and I prophesy that the case will be reversed, that is why I want to have an opportunity to object.

The Master: You are probably a better lawyer than a prophet, because no case is ever going to be reversed if the error is immaterial.

Mr. Chambers: Well, the error is not immaterial.

The Master: And when I decide this case, this 18807
paper is going to be entirely immaterial, I am going to arrive at it irrespective of these reports.

Mr. Goetz: The only way to prevent the reversal is to continue this case for fifty years.

Mr. Chambers: Then why admit it?

The Master: Because it is part of the records of the company.

Mr. Chambers: I would just as leave rest now on what I think are reversible errors in the case.

The Master: I have no objection, would be glad to have you do that if you would.

Mr. Goetz: The complainant has offered these papers because they have been called for by the defendants, because the defendants have cross-examined on their contents.

Mr. Chambers: That is what I want on the record, that every time we call for a record we are subject to having it offered and admitted in evidence.

Mr. Goetz: And because the papers are part of the records to which the witnesses have already referred which have been fully described, and
18809 the testimony given both by Mr. Brundage and Mr. Teele.

The Master: Well, these particular papers, Mr. Goetz, I am taking really on the theory that they are part of the records of the company, that they are all subject to offer.

Mr. Chambers: And I have not finished my grounds of objection, that the paper is now hearsay, secondary evidence, not a book or account made in the ordinary course of business, that it already appears that the two persons whose names are signed as assistant superintendent to these papers are living, are in the employ of the
18810 complainant, and are available, and we have a right to have them subpoenaed in the ordinary course, and the right to cross-examine them when they are here in court. In other words, we object to this because it deprives us of the right to the common-law evidence, and to be confronted by the witness; and on the further ground that there has been no evidence whatsoever offered to prove the authenticity of the paper, nor has there been any evidence offered to prove that the papers are in any way accurate, or that these two persons whose names are signed

make accurate records and reports. I guess that is enough.

Mr. O'Brien: Your Honor, you are now in the retort house with me. This is where I expected that the company would have gone. This is the data that I expected they would have presented in the beginning of the case, and only confirms what I said to your Honor at that time about their being able to present in a form that would not take vanloads of data, reliable, or at least underlying original entries that covered certain items in this case. 18812

Th Master: Mr. O'Brien, I should like to know what objection you have to marking these in evidence.

Mr. O'Brien: I object on the ground—

The Master: I want the grounds.

Mr. O'Brien: That they are incompetent, irrelevant and immaterial, for the reason that they are based upon books of original entry and underlying data that has not been offered in evidence, for instance, the first item that is set forth giving the coal on hand depends upon an inventory.

The Master: Don't argue.

Mr. O'Brien: The inventories are not in evi- 18813
dence.

The Master: Mr. O'Brien, if you want, state your grounds, and the minute you start arguing your grounds, I am going to shut you off from further discussion.

Mr. O'Brien: Maybe your Honor will change your view about it after you see what I am driving at.

The Master: No, I won't change my view.

Mr. O'Brien: On the ground that the man who made these records—first, that the underlying

data on which these are predicated and based has not been produced in evidence or offered here; secondly, on the ground that the men who made these records, in whose handwritings they are have not been put on the witness stand and subjected to cross-examination; thirdly, on the ground that they contain figures that are the result of computations, and we have not here the factors that enter into the computations at all. Fourthly, on the ground that as far as the make of gas is concerned they depend upon meters, the
18815 accuracy of which has not been proven by proper testimony; and in that connection I call your Honor's attention to the fact that at the 99th Street station they are using a proportional meter, a kind of meter that is antiquated and out of use and entirely unreliable.

The Master: I told you not to argue it.

Mr. O'Brien: Again on the ground that there is no evidence before the Court as to coal that was sent away to various places.

The Master: The Master rules that the objection that it is incompetent, irrelevant and immaterial will amply protect counsel for the de-
18816 fendant Swann, and decline to hear any further discussion or any further grounds of the objection. The 99th Street report will be marked in evidence as Exhibit 372, and the 21st Street report will be marked in evidence as Exhibit 373.

Mr. O'Brien: Will your Honor now bear with me while I detail—

The Master: No, I think your statement that it is incompetent, irrelevant and immaterial, covers you and protects all of your grounds.

Mr. O'Brien: Exception. Is your Honor receiving in evidence all the reports for the year,

that is the twelve different reports for each of the stations.

The Master: I am receiving in evidence those that the witness was interrogated about and which he produces, December, 1918, for the 99th Street station.

Mr. Chambers: May we have the reports for the other twelve months marked for identification?

The Master: I will not stop to mark anything for identification.

Mr. O'Brien: Can we have them marked in 18818
evidence?

The Master: You can have anything marked in evidence you want.

Mr. O'Brien: We ought to have them complete for the year.

The Master: No, I am not going to waste any more time marking papers for identification.

Mr. Chambers: I am not going to ask this witness any questions about the boiler fuel shown on Exhibit 364, boiler fuel coal, boiler fuel coke, boiler fuel water gas tar, boiler fuel crude still residue, labor, cartage, etc., handling, so that Mr. O'Brien may have an opportunity to go into 18819
those items in full and not be foreclosed because I asked some questions about them. I think he is entitled to a full opportunity, even though I may have asked some questions about some items.

I will not ask any question about Exhibits 372 and 373 for the same reason.

The Master: In view of Mr. Chambers' statement, I want to make a statement for the guidance of counsel. I will not permit any objection hereafter further than an objection that a paper is either irrelevant, incompetent or immaterial, or all

three of those grounds, unless the Master asks counsel to particularize the theory upon which it is irrelevant, immaterial or incompetent. I will hear no further objection except those specific grounds, or one of them.

Mr. Goetz: And counsel may have the benefit of any particularization on any exceptions later filed with the Court?

Mr. O'Brien: Are you amending the Master's decision?

The Master: No, he is looking for his own
18821 protection. He asks me whether, when they make an objection on the ground that it is incompetent, irrelevant and immaterial, it will be understood that their exception to my ruling includes any specific ground covered by that. I say, "Yes," and the same thing applies to you.

Mr. O'Brien: You won't find many objections by Mr. Goetz in the record.

Mr. Goetz: I have made as many as I can today.

Mr. O'Brien: On that point your Honor will appreciate that there are some cases that may arise when you want the objections particularized

18822 The Master: If I do, I will ask it. Unless I ask I will not have a thing further.

Mr. O'Brien: Don't you see, by pounding away on this thing—

The Master: I see by pounding away you are wasting time.

Mr. O'Brien: Well, the record speaks for itself.

The Master: Hereafter it is going to speak "irrelevant, immaterial or incompetent"; and if you don't know which it is you have in mind you can all three.

By Mr. Chambers:

Q. You have on Exhibit 364 an item for "Salaries, General Office." Where did you get that item from, $334,777.65?

A. Operating Ledger B, folio 998.

Q. Where does the item appear here?

(Witness points to the item.)

Q. Now, the first item that appears here on this operating ledger at page 998, Exhibit 190, is an item of $133,540.41, for general officers for the month of December. That is the total for the twelve months to general officers. Did you analyze that account and 18824
can you say what salaries of who was in there?

A. I cannot. I have not personally analyzed it so that I do not know. I may say in a general way that it includes all of the executives and all of the employees of the company that are paid on a monthly basis

Q. Mr. Gawtry, for instance?

A. I believe so.

Q. And Mr. Woods, who has testified here?

A. I believe so.

Q. And Mr. Addicks who has testified here?

A. Not having personally seen the general office monthly roll myself I cannot say that those names are 18825
on it.

Q. Did you take occasion to look it over and check it up?

A. With regard to these pay rolls, we checked every pay roll in the year 1918 against the distribution of the pay rolls; and for the two months of January and December we checked the distribution made on the station pay rolls—not on the station rolls, but all other rolls on a weekly basis, we took the individual cards involving an examination of over 20,000 cards, and made a distribution of the time reported upon

18826 Arthur W. Teele, Cross.

those cards, and compared that distribution with the distribution reported by the pay roll department in order to test the correctness of the distribution made.

Q. You haven't any way, then, of knowing whether these salaries, whether the men who rendered services for these salaries in that first column devoted all their time to the making and distribution of gas, the production and distribution of gas, have you?

Mr. Goetz: I object to that.

The Master: I will allow it.

A. I have no way of knowing whether they de-
18827 voted the whole of their time, no.

Q. Take Mr. Woods, for instance. You did not make any effort to ascertain how much of his time was devoted to something else other than cost of production and distribution?

A. I don't know of any existing means by which I could so ascertain.

The Master: The answer is you did not?

The Witness: I did not.

Q. So, when you represent this amount of $334,777.65, and then cost per thousand cubic foot of $.01086, you cannot say that that represents an expenditure for cost of production and distribution?

18828 The Master: Except as the books charge it.

The Witness: Except as the books show.

Q. You mean except as shown on this operating ledger?

A. Except as shown on the operating ledger and the underlying records to which the entries made in that account refer.

Q. What underlying records did you examine as to the general officers?

A. Pay roll distribution.

Mr. Goetz: There is no item on this statement of salary of general officers, to which Mr. Chambers refers.

Q. Mr. Teele, if any of these officers whose salary is included in this sum, spent some of their time or all of their time on matters other than the cost of distribution and production, so much of it should not be in this item, isn't that so?

The Master: Objection sustained on the ground that it is argument.

Q. You have placed this item of general office salaries under cost of distribution, haven't you?

A. I have.

Q. Now, you told me yesterday, in answer to my question, that in determining how items shall be 18830
classified you followed the rules and definitions of the Public Service Commission, didn't you?

A. Yes.

Q. Now, will you please look at the uniform system of accounts of the Public Service Commission—

A. I did not say that I followed the rules of the Public Service Commission in setting up this statement.

Q. I read you what you did say then: "In determining how items should be classified what rules and definitions did you follow, those of the company or of the Public Service Commission?" And you answered: "Those of the Public Service Commission." 18831

A. Your question, if I recall, did not relate to the items on this statement.

The Master: What page is that?

Mr. Chambers: Page 3797 of the mimeographed copy.

Q. "Are all your schedules, then, in accordance with the uniform system of accounts of the Public Service Commission?" And you answered: "The expenditures shown on these schedules have been classified in accordance with the uniform system of accounts."

18832 Arthur W. Teele, Cross.

The Master: The Master calls attention to the fact that the questions to which Mr. Chambers now refers had to do with the preparation of schedules Exhibits 205 and 355, the question being found at the temporary mimeographed page 3795, as follows: "Q. Mr. Teele, in preparing Schedules 205 and 355, what system of accounts did you follow? "A. I followed the system of accounts in use by the Consolidated Gas Company."

Then followed the questions which led to the
18833 answer that he followed the Public Service Commission rules, when it all had reference to Exhibits 205 and 355.

Mr. Chambers: The record does not quite say that. Your Honor can so interpret it, but that question I asked him on that page was general and was so intended, and now I ask him this:

Q. In all your schedules, including 365, 364, 205, 355 and 366, what rules and definitions did you follow?

A. I followed a plan of presenting the information in what I thought would best present it, and I presented it by compiling the expenditure which is re-
18834 corded on the books of the company—

The Master: You have not got the question at all.

By the Master:

Q. Do you remember Exhibit 255, which is your tabulation of operating revenues for 1918?

A. 205.

Q. Yes, Exhibit 205. Do you remember that schedule?

A. Yes.

Q. You testified yesterday that the classifications you made there were in accordance with the Public Service Commission rules?

A. I do not think I did. I said the expenditure had been classified in that way—the expenditure of the company had been classified in accordance with the Public Service Commission.

Q. Yes, that is on Exhibit 205.

A. And the titles to the accounts here shown refer to the titles of the account numbers of the Public Service Commission. I think in grouping the Public Service Commission do not include under one heading Cost of Distributing, as I have all items other than those included under cost of production.

Q. As to 355 you followed the same plan? 18836

A. 355 is the 1919?

Q. Yes, 1919.

A. I followed the same plan as I did here in 1918.

Q. As to 364, 365 and 366, which are the statements or tabulations, did you make them up in such form as you thought would best show the situation?

A. I did.

Q. Or did you follow the Public Service Commission?

A. There is no prescription as far as I know of the Public Service Commission as to how a statement of that kind should be prepared.

By Mr. Chambers: 18837

Q. You followed the same plan as to Exhibit 364 that you followed as to Exhibit 205; that is, you put salaries of offices under cost of distribution, did you not?

A. Yes, I did.

Q. You followed the same plan?

A. I know I did.

Q. So when you answered the question yesterday that related to 205 and 355 you would have to make the same answers as to 364?

A. I will say this, Mr. Chambers: In grouping the

items on this statement 364 I have endeavored to have it conform to the schedules shown on 205.

Q. And when I asked you the question as to 205 and 355, in regard to what rules and definitions you followed, your answer would be the same as to 364 and 365 as you made yesterday—would have to be, would it not?

A. I am not clear as to the question that you asked yesterday and its relation to 205. I testified that the expenditures, which constituted the items entering into 205, had been classified in accordance with the Public
18839 Service Commission regulations.

Q. Well, that is true of 364.

A. But the grouping of 205 is not identical with the grouping as prescribed by the Public Service Commission. If I did not so say, I will say it now.

Q. You have included salaries of general office under cost of distribution?

A. I have.

Q. Look at the uniform system of accounts and salaries of general office is not included in cost of distribution.

The Master: Where is it included, Mr. Chambers?

18840 Mr. Chambers: Is it? Look at page 47. It is included in general miscellaneous expense.

The Master: What difference does it make, whether it is charged to one or the other?

Mr. Chambers: It makes a good deal of difference.

The Master: In the net or ultimate result what difference does it make?

Mr. Goetz: It is a subhead of distribution.

Mr. Chambers: Mr. Goetz, you are wrong. No. 2 is transmission and distribution expenses. It is not there. That is 2, isn't it?

Mr. Goetz: That is correct.

Mr. Chambers: And that is 3 (indicating)?

Mr. Goetz: That is correct.

Mr. Chambers: That is 4, that is 5 (indicating). You find it under 5.

Mr. Goetz: It follows distribution expenses.

Mr. Chambers: It is not a subhead of 2.

Mr. Goetz: It follows distribution expenses the same as this does.

Q. You find it under general miscellaneous expense, do you not, Mr. Teele, page 47?

A. Accounts G-833, G-834 and G-835 are a subhead of general miscellaneous expense as set out on page 47. 18842

Q. Look over on page 44 and you will find transmission and distribution expenses under a separate heading entirely, will you not?

A. Yes.

Q. So you have not followed this uniform system of accounts in that regard at least?

The Master: One minute. I am just looking at this exhibit "Uniform System of Accounts" and I find that on page 39 a reference is made to general accounts, 1, production expenses; 2, transmission and distribution expenses, and that the items we are now referring to come under— 18843

Mr. Chambers: No, look at 5. They come under 5.

The Witness: They come under 5, your Honor.

The Master: Under miscellaneous expenses. I see.

Mr. Chambers: They come under 5, what we are on now. He has them under distribution.

The Witness: But I have grouped production expenses, and I have grouped all others as dis-

tribution expenses. It is only a question of subdividing the distribution expenses into different groups.

The Master: You have not grouped it into commercial expense separately?

The Witness: I have grouped all other expenses other than production expenses under one grouping of distribution expense, instead of subdividing it as in this classification.

Q. General miscellaneous expense is not a subdivision of transmission and distribution?

18845 A. I did not say it was. I said I had included it with the distribution expense, but I had grouped all the other expenses except production expenses.

By the Master:

Q. Let me ask you, in Exhibit 205 have you got the salaries and expenses of general offices under the account G-833?

A. Salaries of general offices, yes, under G-833.

Q. What page?

A. I referred to G-833. It appears on folio 998.

Q. What page?

A. Page 28 of my schedule for 1918, Exhibit 205.

Q. You have taken off from ledger folio 998, salaries

18846 general office, all of the accounts which the Public Service Commission require to be kept under G-833?

A. 833 and 834.

Q. And 834, yes, I see.

A. The Consolidated Gas Company's ledger account on folio 998, while it is one ledger account, it is subdivided into columns under the headings as shown on this sheet, for the purpose of separating the classifications as required by the P. S. C. in our instructions covering accounts 833 and 834. It subdivides a great deal more than what the P. S. C. required, because instead of keeping one account covered by G-834 the company keep thirteen different subdivisions of it.

Q. I see that on page 47 the uniform system of accounts requires that there be charged to G-833 the salaries and traveling and incidental expenses of various officers. As I get it, the gas company keeps an account "General Offices" under 833 and then subdivides general office expense and expenses of officers under 833. You have subdivided that?

A. They do keep those two separate accounts. Instead of throwing everything into one account, as provided by 833, on two ledger pages, they have the salaries on 998 and the expenses of officers on 1036.

Q. But both of them are under G-833? 18848

A. They are required by G-833. Instead of making five subdivisions in this schedule, as the P. S. C. do, I have limited my subdivisions to two, putting into the cost of production those items which the uniform system of accounts calls for to go under cost of production, and putting all other items which they require or call for under four different classifications, under the one classification "Cost of Distribution."

By Mr. Chambers:

Q. You have not any doubt, have you, but that the salaries of all the monthly employees and yearly employees are included in your sum of $334,777.65?

A. No.

18849

Q. Regardless of for whom they worked?

The Master: Objection sustained.

Q. Did you try in any way to ascertain what part of the time of the officers whose salaries are included in this sum of $133,540.41 was devoted to the cost of production and distribution?

The Master: Objection sustained as already answered.

Mr. Chambers: Exception. You mean he said it could not be done?

The Master: Yes.

18850

Mr. Chambers: I ask you now to strike out of this exhibit and disregard the item of $133,540.41.

The Master: Application denied.

Mr. Chambers: Exception.

Q. As to the engineering department, what employees did you include for 1918, in the sum of $38,089.78?

A. I cannot give you the names of the employees.

Q. Was Mr. Woods, who testified here, one of them?

A. I just said I could not give you the names.

18851 Q. You do not know who they were?

A. The items shown under engineering department are the items appearing on the distribution of the general office monthly roll and the general office weekly roll—that portion of it which relates to the engineering department.

Q. Then you are unable to say of your own knowledge that the salaries of the engineering department you used here are for services devoted entirely to the cost of production and distribution?

A. I should say they were.

Q. What do you base that on? Just because you find it in the book?

18852 A. Because the entries in the book were verified by the distribution of pay rolls which we checked against these entries, and by the further fact that the ledger account bears evidence that there is a charge made to sundry debtors for a portion of the salaries charged under "Engineering Department."

Q. Supposing the pay rolls were wrong?

The Master: Objection sustained.

Q. Did you endeavor in any way to ascertain whether the salaries of this engineering department was for services in the production and distribution of gas entirely?

Mr. Goetz: Objected to as already covered.

The Master: I will let him answer that.

A. State the question again.

Q. Did you endeavor in any way to ascertain whether the salaries of this engineering department were for services in the production and distribution of gas entirely, of this company?

A. I have classified all of the expenditures under salaries of general offices, engineering department, as shown by the pay rolls, and their distribution as distribution expense, as so stated.

Q. You did not answer my question at all, Mr. 18854
Teele.

By the Master:

Q. Did you go back and analyze the distribution of the pay roll to see whether it was right?

Q. I have no means of analyzing the distribution of the pay roll except that portion of it which is recorded upon time books or time cards, and where that portion of the engineering department is recorded upon time books or time cards we did make a test during the months of January and December, and we checked the records of that department against the distribution made for those two months.

Q. That practically refers only to hourly men, does 18855
it not?

A. Yes.

By Mr. Chambers:

Q. But the monthly or yearly men?

A. The men whose time is charged against specific projects.

The Master: Mr. Chambers, I am going to let you ask one general question as to the various other columns on that page, but I will not let you go into the same detail as to each column. In other words, I will let you bring out from this

witness that what he has already testified to applies to the other columns on that page, if that is a fact.

Mr. Chambers: I would like to ask him about each column.

The Master: I will not permit it.

Mr. Chambers: Exception. Then I get penalized, perhaps, by taking the wrong one.

The Master: I don't see how you figure any penalty. I see on this page that the salaries general offices is divided into a number of columns,
18857 general officers, engineering department, commercial department, purchasing department, transfer department, accounting department, insurance department, chemical department, general stenographers, messengers, telephone operators, other salaried employees, pay roll department and carpenter shop. I have let you interrogate in detail as to general officers, being the first column and engineering department, being the second column I have let you go to the point of establishing the fact that this witness can not say, except as he has checked the pay rolls against the credits for January and December, that all of the charges
18858 made upon that sheet as for time, were actually spent exclusively in the interest of the Consolidated Gas Company.

Mr. Chambers: That is correct, is it?

The Witness: We checked all pay rolls during the year 1918, the totals of the pay rolls against the totals of the distribution; we made the further check of taking the month of January and the month of December, and checking the distribution in detail where there were any underlying records supporting the distribution, such as the time cards.

The Master: But you cannot say—

The Witness: But where the distributions have been made by the superintendent of the department employing help on a weekly or monthly basis, we relied entirely upon the designation by that superintendent of the work of the men included on the pay roll which he has approved, and to which he distributes it.

By the Master:

Q. In other words, you cannot say whether Mr. Cortelyou, as president of the company, devoted his time exclusively to the gas company for the year 1918?

A. I cannot. 18860

Q. And you cannot say that any particular messenger whose bill is charged up here did not do some little thing for somebody else?

A. I cannot.

Q. And that applies to all of these columns?

A. It does. There is no such record anywhere.

By Mr. Chambers:

Q. You cannot say that Mr. Gawtry and the other employees devoted their entire time to the cost of production and distribution of the Consolidated Gas Company of gas for this year, can you?

A. I cannot. Whatever the company paid them for their services, their services are chargeable to the cost 18861
of distribution, or to the cost of the operation.

Q. You just took then what the company paid them?

The Master: That objection is sustained.

Mr. O'Brien: Your Honor, I wanted at this time to state that when I get to cross-examine I will require the witness to produce the underlying records for January and December, that were made the basis of tests that he says he made.

The Master: I won't allow any question on that page.

18862 Arthur W. Teele, Cross.

Mr. O'Brien: Well, this would be for the purpose of determining the accuracy of those tests.

The Master: I won't permit any question about that page.

Q. You say whatever was paid all of these general office salaries, were charged to distribution?

The Master: Objection sustained. I said I won't allow another question about that page.

Mr. Chambers: I have a number of others.

The Master: I won't allow another question.

Mr. Chambers: I respectfully except, that is

18863 all counsel can do.

The Master: I won't allow any further examination as to that page at this point. It is sufficiently covered.

Mr. Chambers: I do not want to be in contempt of court for asking, but I just take an exception. I did want to ask some more about it.

The Master: That is correct.

Mr. Chambers: That is all counsel can do.

The Master: That is all you can do. If I am wrong about it, the courts will reverse me. I have got to limit this cross-examination somewhere.

18864 Mr. O'Brien: Your Honor, in view of the fact that you have just stated that when I get to cross-examine you will not permit any further inquiry as to the salaries, general officers, page 998 of the operating ledger, inasmuch as you have made the statement on my having announced that I will require the underlying data to be produced for the month of January and December, concerning which or in connection with which the witness says he made tests, I will except at this time to the ruling that your Honor has announced, and state further that I intend to pursue the cross-

examination as to each one of the items in this account on page 998 of the operating ledger with a view to testing the witness's knowledge of the underlying figures, the method adopted by him of verifying them, the accuracy of his tests, the question whether in those tests he really got the underlying data or depended upon reports made from the various stations by the superintendents, and further catechising to bring out the unreliability of the tests that were made by the witness, and also to bring out the inadequacy of such tests as made to form a basis from which the witness 18866
might make a conclusion as to the accuracy of all of the records for the whole year.

The Master: Mr. O'Brien, I have announced that I have limited the cross-examination on this page at this point, and I won't permit any further questions upon it. You have taken your exception, and I shall not expect to hear you ask a question about that page.

Mr. Chambers: I am not going to ask a question, but I am going to ask the Master if he won't permit me to show that the—or make the witness acknowledge that he was in error when he said that he found as to general officers and 18867
some others a charge to sundry debtors indicating that they charged the other companies for some of those expenses.

The Witness: I did not say so.

Mr. Chambers: Well, you said when I asked you about—I understood you when I asked you about general officers you said you found a charge to sundry debtors.

The Master: No, he did not say so. I won't permit the inquiry.

Mr. Chambers: Well, the books show as to

general officers there is no charge to sundry debtors.

The Master: Yes.

Mr. Chambers: And that is true of some of the others, and most of them.

The Master: Yes. There are some charges he said, that is all.

Mr. Chambers: The commercial department has a little charge.

The Master: That is correct. No further questions on that page. Go to something else.

18869 Q. Now, I take up the item of legal expenses, your Honor. Where do you get your sum of $42,551.18 from? Speaking of the item on the bill 364?

The Master: You are likewise speaking about the item on Exhibit 205, it is the same item.

Mr. Chambers: I have not touched on this.

The Master: I am calling your attention to it because when you come to 205 I am not going to let you ask the same thing over again. It appears on page 29 of Exhibit 205.

Mr. Chambers: Now, you have the best of me because you have stopped me. I can try to ask it, but you can stop me.

18870 The Master: I am calling your attention to the fact that the item appearing on Exhibit 364—

Mr. Chambers: Shall I include it.

The Master: You need not include it, but I want to identify it as the same item which appears on page 29 of Exhibit 205, legal expenses, $42,551.00.

Mr. Chambers: I can ask that, too.

The Master: No, just identify it and ask him where he got that.

Mr. Chambers: The question pending is, where did he get the one on 364.

The Master: Before he answers the question, I want to identify that item of legal expense on Exhibit 364, $42,551.18, as being the same legal expense of $42,551.18 appearing on page 29 of Exhibit 205.

Mr. Chambers: The same item, your Honor. I see what you want. I thought you were referring to this 365. Oh, I see. That is right. That is proper. I thought you were referring to this forty thousand dollars over on 365. It is the same one that is on that Exhibit 205?

The Witness: Yes, operating ledger B, folio 18872
1037, account entitled legal expenses, a total for the year being $42,551.18.

Q. Exhibit 190, it is, operating ledger B for 1918, is that right?

The Master: If you say so, it is right.

The Witness: I did not look.

The Master: You just make the statement that that is the book you are talking about.

Mr. Chambers: That is it.

Q. Now, that account appears to have a balance, doesn't it, left over from some other year? No.

A. I do not so read it.

Q. I was wrong in my question. It has a balance 18873
of $42,551.18 at the end of the year, the account, hasn't it?

A. It has not.

The Master: The total charged.

The Witness: The account is closed out at the end of the year.

Q. There is no balance there at all?

A. There is no balance. The balance in the account before the closing entry is made is $42,551.18. The closing entry transfers that balance to profit and loss account for the year.

Q. So there was a balance in the account?

A. You did not ask me whether there was. You asked me if there was a balance at the end of the year.

Q. Well, in the account—

The Master: Oh, we are just splitting hairs about it. The lawyers charged the company $42,551 for the year's work?

The Witness: Yes.

The Master: And incidental disbursements, is that the idea?

18875 The Witness: Yes, sir.

The Master: The rest of it is merely bookkeeping talk, is that right?

The Witness: If the Master so regards it. The account, as it stands, your Honor, is closed, because the entries in it, the debit entries and credit entries in the account are equal.

The Master: How much did they spend for lawyers' fees and expenses last year?

The Witness: $42,551.18.

The Master: That is the plain English of it, is it?

The Witness: Yes, sir.

18876 Q. Did you examine the vouchers for that, or what you call the underlying data for that expense?

A. I did.

Q. What was the money spent for?

The Master: For lawyers' fees.

Q. Well, in what cases? It might be a case.

The Master: Do you know what service was rendered by the lawyers?

Q. Was Whitman, Ottinger & Ransom's services in it?

Mr. Goetz: I object, if your Honor please.

Mr. Chambers: They are counsel for all these—

The Master: I will allow it.

Mr. Goetz: There was no such firm in existence in 1918.

The Master: How do I know that?

Mr. Goetz: This question discloses the fact—

The Master: As a matter of fact, it was in existence in 1918. It had been formed before the 1st of January, 1919, because Gov. Whitman told me so.

The point we want to get at, Mr. Teele—and this is all I am going to allow—is this: Do you know whether or not any of the legal charges 18878
in this account, whether to one firm or another, contemplated any work with reference to this rate case. That is what you are after?

Mr. Chambers: Yes, that is one thing.

The Master: Well, that is the principal thing you are after. Do you know, Mr. Teele?

Mr. Chambers: That is one thing.

The Witness: My examination of the underlying data did not disclose that any payments were made with that in view.

Q. Did the services relate to any matters outside of the Consolidated Gas Company and the cost of distribution of gas?

18879

The Master: In other words for affiliated companies.

Q. Or anything outside of the cost of production and distribution of gas?

The Master: Get to the point, and direct the witness's attention to it.

Q. What have you to say to that, as to whether these legal expenses and services—

The Master: Has sole relation to the production and distribution of gas.

Q. (Continued.) Of the Consolidated Gas Company?

The Master: Can you say whether they did or did not?

A. They had to do with the general administration of the company.

The Master: Is that the best you can tell us?

The Witness: And consequently that part of the expense of production and distribution—

Mr. Chambers: I object and ask to strike it out, because that is his conclusion.

The Master: There is no use striking things
18881 out. Listen to this question, Mr. Teele. Are you prepared to say that the services rendered by these attorneys had relation solely and exclusively, whether you call it with reference to the general cost of the business or not, to the production and distribution of gas by the Consolidated Gas Company, and that it had no relation to anything else?

The Witness: So far as my recollection goes it had no relation to anything else.

The Master: That is the best we can get.

Q. Now, where did you find that information, what did you base that last answer on?

18882 A. The entries and vouchers in connection with this expenditure are not fresh in my mind, and I cannot say without reference to them at this time what the detail of that account is.

Q. Well, how can you say truthfully, Mr. Teele, I don't think you will say, that this relates exclusively to the cost of the production and distribution of gas, as distinguished from other corporate matter of the Consolidated Gas Company?

A. Will you read my answer? I don't think I said that.

Mr. Goetz: I object to that.

The Master: I am going to allow it. I think when Mr. Teele understands the question he will admit that he cannot distinguish; in other words, there may have been some question of corporate management, some question of contract, some question of investment, some question of general advice with reference to policy—

Mr. Chambers: Some question of buying or selling a piece of real property that was not used in gas production.

The Master: The impression I got is, and I have rather expected that that would be the an- 18884
swer, that generally speaking it was for legal services rendered to the company, but that he could not say that there was not some item which had relation to the sale of a piece of real estate, or a question of policy, or something of that nature.

The Witness: I think my statement runs to that effect, that my present recollection is that there is nothing there that did not relate to the production and distribution of gas, but without the details before me I could not say definitely.

The Master: If counsel want these vouchers here I will direct that they be produced tomor- 18885
row.

Mr. Chambers: I think we had better have them.

The Master: Mr. Goetz, have the vouchers here tomorrow. I will mark them in evidence, and we will know what it covers.

Q. Did you find any other expenditure made by the Consolidated Gas Company for legal expense other than those shown on page 1037?

A. No.

Q. That is all they spent for legal services?

A. In 1918.

18886 Arthur W. Teele, Cross.

Q. Now, take commercial expenses—

The Master: That is the million dollars?

The Witness: $1,012,592.48.

The Master: Where is that on Exhibit 205?

Mr. Chambers: Page 26.

The Master: This item on Exhibit 364, commercial expense, $1,012,592.48 is made up how?

The Witness: It is made up of the following items.

The Master: In what account on 205?

The Witness: If you will turn to page 25 of
18887 Exhibit 205 I will give you a list of the items.

Mr. Chambers: Just a minute. Are not they set forth in this Exhibit 205 at the bottom of page 25 where you begin, "Commercial Salaries, G. 551," and don't they run clear through to the top of page 28?

The Master: Let him give me the items.

The Witness: $101,445.80, $156,899.96, $139,170.69, $113,441.61, $150,661.94, $120,808.33, $15,089.25, $173,041.23, $33,033.67.

Q. Now, those added together make up this $1,012,592.48, do they?

A. Yes.

18888 Q. Now, take the first sum of $101,445.80, you have there an item for the Hester Street Branch, of general expense. Where did you obtain that?

A. Ledger B, folio 934.

Q. For the general expense, what data did you examine for the item of $16,573.08?

A. It came from a distribution of shop pay rolls, general office monthly pay rolls, Branch 1 pay roll—

The Master: Well, it is indicated on the ledger, you are simply reading the entries from the ledger?

The Witness: That is where the information was obtained.

The Master: In other words, it comes from the sources indicated on the ledger page?

The Witness: Yes, sir.

Q. Only pay rolls? You read something else, I thought. Was there any other data used except pay rolls?

A. No.

Q. Did you examine those pay rolls?

A. I have already testified I examined the pay rolls.

The Master: You followed the same course as to distribution of pay rolls as the others?

The Witness: All pay rolls of the company 18890
for 1918 I checked and compared with the distribution of those rolls, and the distribution of all those pay rolls have been checked against these labor entries.

Q. Now, "High Bills," $511.87—what data did you use for that item?

A. The pay rolls referred to.

Q. They show "High Bills"? You mean the pay rolls show the "High Bills"?

A. What was your question

Q. What data did you use in ascertaining the "High Bills"

A. In ascertaining the "High Bills" You are re- 18891
ferring to this ledger account There is nothing on it that indicates there are any "High Bills" on it.

Q. No, I am referring to Exhibit 205, "High Bills"?

A. Which is the classification of the items shown on folio 933 to which the exhibit refers.

The Master: Under the ledger folio, "Commercial Salaries." It is all salaries.

The Witness: It is all the salaries classified as to the work done in the various departments. The work done against "High Bills" is shown.

They have a "High Bill" clerk that attends to that work.

Q. Now, the 15th Street Branch, where did you find that item of $156,899.96?

The Master: Objection sustained upon the ground that Exhibit 205 says it is found at ledger folio 936.

Q. Does it refer to the same character of entries as to the Hester Street Branch?

A. There are pay rolls and general entries.

The Master: That is all salaries?

18893 The Witness: I could not say without looking back at the original vouchers. It is called "Commercial Salaries."

Q. There is one other item there, general suspense?

A. Refer to the original entry, you can see what it is. It is general suspense, telephone service.

Q. What do you mean as to that general suspense, telephone service?

A. Refer to Journal Entry No. 1089 for December, 1918, operating journal. The item referred to by the Journal Entry 1089 is $76.35 charged against the 15th Street branch, and the entry reads: "For the proportion of the cost of operating the general office
18894 building telephone switchboard, December, 1918, applicable to the departments of this company, including salaries paid to operators, supervisors and others, and any incidental expense, based on the number of extensions as of December, 1918." They have classified that year under their "Commercial Salaries."

The Master: And charged it to the 15th Street branch?

A. Charged it to the 15th Street branch.

Q. Did you find out who apportioned the cost of operating the telephones in that general office building?

A. I think Mr. Brundage testified that he did.

Q. What was the basis of it?

A. It is stated here. The entry itself says, "Based on the number of extensions as of December, 1918."

Q. Did you check up those extensions?

A. No, I did not check up the extensions.

Q. You didn't do anything with it at all, did you?

The Master: Objection sustained. The witness has said he did not check those extensions. It is quite apparent that he took that entry as a proper charge against the 15th Street branch, assumed it to be correct. 18896

The Witness: It having been approved by the officer in authority.

Q. The item "Bookkeeping." Did you endeavor to ascertain if the time of all the bookkeepers was devoted to the Consolidated Gas Company's business under the cost of production and distribution of gas?

The Master: What item is that?

Mr. Chambers: On page 26 of 205.

The Master: Bookkeeping, regular, you mean, and bookkeeping prepaid?

Mr. Chambers: Yes, I wanted to get a general question that would cover those general items, the same as salaries of the general officers. 18897

Q. Did you ascertain whether they devoted that time, the bookkeepers and collectors to the cost of production and distribution of gas of the Consolidated Gas Company?

A. Their time is devoted as indicated by the distribution of the pay roll entries, endorsed by the superintendent of the branch under whose direction they are employed.

Q. Did it include the bookkeeping at the main office also?

A. At the branch office? Branch office bookkeepers do not do the bookkeeping of the general office.

Q. What tests did you make in regard to their salaries?

Mr. Goetz: I object to that. That has been given several times.

The Master: I will allow it.

A. What tests did I make as to what?

Q. As to the salaries of these bookkeepers?

A. What do you mean by "what tests"?

Q. The bookkeepers in the 15th Street branch?

18899 A. I don't think I understand your question, Mr. Chambers.

Q. How did you ascertain the accuracy of the entry in the operating ledger for bookkeeping at the 15th Street station?

A. I relied upon the distribution furnished by the superintendent of the branch as to the account to be charged for the people employed under him and named on the pay rolls to which he certified.

Q. Was that true of the other items like cashier's department and indexing?

A. That is true with regard to all branch office pay rolls.

18900 Q. The item of $139,170.69 appearing on the next page of this operating ledger, how did you ascertain the accuracy of this charge here?

The Master: What is the item? Read it all.

A. The same expenses for a different branch, that is all.

The Master: I do not see any necessity for repeating these questions. Apparently the book has ruled off as to each branch the same columns and the same general headings, and the same entries are made. Questions with reference to

one branch would seem to me to apply to every other branch.

The Witness: They do.

Q. Then as to each branch it is the same—relying on the distribution made by the superintendent of the branch?

A. For pay rolls, yes.

Q. And that is true of the Amsterdam Avenue branch and the Third Avenue branch, is it, found on Exhibit 205?

A. Yes.

Q. And those are confined entirely, are they, to 18902
labor, folios 938, 940 and 952 of Exhibit 205?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Commercial office supplies found at folio 954 of this operating ledger for 1918, how did you ascertain the sum of $129,808.33? For instance, let us take them one by one. Atlas Stationery Corporation. Did you examine the vouchers for that?

A. To what item are you referring?

By the Master:

Q. Before you answer that question, Mr. Teele, folio 954, referred to by counsel is headed "Commercial Office Supplies and Expenses" and is ruled 18903
off in columns of date, then the column for the name of the person rendering some service or selling some supplies, voucher or journal entry number, Hester Street, 15th Street, 57th Street, Amsterdam Avenue, Third Avenue, total. Now, do I read this correctly that when some stationery was bought for a branch it was entered into this account and charged against the particular branch?

A. Yes.

Q. Or some towel service or something else, as to each branch?

A. Yes.

Q. Did you look at every invoice charged in that account?

A. Every invoice, every voucher for the year 1918 was examined by me personally or by my staff.

Q. As to whether it went to a particular branch or another branch that you are unable to say?

A. Only by the endorsement on the voucher itself.

By Mr. Chambers:

Q. This item for operating the restaurant at 15th Street, you included that right in, did you?

18905 A. What do you mean?

Q. Operating the general office restaurant. You did not exclude that item of $741.34?

A. That item referred to is included in here. It is not operating general office restaurant; it is a portion of the expense of operating the general office restaurant which is charged against this particular branch, as shown by journal entry No. 1212.

The Master: What is that, the 15th Street branch?

The Witness: Yes, sir.

Q. That sum finds its way into your summary here?

18906 The Master: The sum of $129,808.33?

Mr. Chambers: Yes, of $129,808.33. Does it not?

Mr. Ransom: Yes.

The Master: In other words, the point you are making, Mr. Chambers, is that of this total of $129,808.33 there is a charge of $741.34 for the expense of operating the restaurant that you say is not included.

Mr. Chambers: Your Honor states it correctly.

The Master: Next question.

Mr. O'Brien: The accuracy of the distribution of restaurant expenses is involved and ought to be explained by the witness. That runs into thousands of dollars, and whether it has been distributed among the various affiliated companies properly or is merely an adjustment figure to shove it in any column the adjuster may see fit to throw it in—that is a question involved in the cross-examination of this witness.

The Master: There will not be much cross-examination on it. He took the distribution made by the officers of the company. 18908

Q. The information you have before you is found on page 433 of this book, the operating journal for 1918, as follows—

A. Entry No. 1212.

Q. Which reads: "Transferring to the following accounts this company's proportion of the cost of operating the G. O. restaurant during the period from Feb. 1st to Dec. 31st, 1918, based on the approximate number of employees, distribution supplies and expenses, commercial office supplies and expenses"—

A. Read the whole line.

Q. "Distribution, supplies and expenses, G. O. St. Department, commercial office supplies and expenses, 18909
15th Street branch, promotion expenses, G. A. D. inc. exp., utilization department, inc., exp., claims and arrears expenses inc., G. O. supplies and expenses, miscellaneous." That is what you used, did you?

A. That is the entry. The entry is endorsed by the official of the company having authority to authorize the plan for the distribution of that expense.

Q. And you treated it as a cost of production and distribution of gas?

A. I did.

18910 Arthur W. Teele, Cross

Q. The item for gas bill paper, did you ascertain whether that gas bill paper was used by the Consolidated Gas Company in its cost of distribution, or was it used by all the gas companies?

A. The item to which you refer was used by the Consolidated Gas Company. There is nothing else in these accounts.

Q. How can you say that?

A. Because after all my examination and all my checking, I have not discovered that the Consolidated Gas Company is charging into its expenses anything
18911 that is used by other companies than itself.

Q. Well, we had the salaries.

The Master: Never mind that.

Mr. Chambers: If Mr. Teele would not make these statements that are really not founded on facts it would be better.

The Witness: If you did not put the question I would not make the answer.

Mr. O'Brien: May I make an observation right here of a thought that is running through my mind while this witness is on the stand—which is this: Why should an outside firm of accountants be brought in to make tabulations that they do not
18912 know anything about, while we have men in the company like Mr. Brundage, who has been working on these figures all the while?

Mr. Goetz: If the Court please, in the Kings County Lighting case Mr. O'Brien was arguing before the Court this very question and was pleading with the Court—asking why they did not get an outside firm to do this work, why they used their own men, and why they did not get some other men to check them up.

Mr. O'Brien: I objected to the expenses in the Kings County case.

The Master: You have made your observation, Mr. O'Brien. Let us get along.

Mr. O'Brien: He does not add anything.

Q. In that gas bill paper, what did you have before you, anything more than the operating journal entry?

A. The operating journal entry No. 1211, charging the commercial office supplies and expense account, various branches, crediting materials and supplies general office stationery for deliveries of gas bill paper from December, 1917, to January 1, 1918, as per memorandum from the purchasing agent dated January 18th, 1918, on file. 18914

Q. That seems to be for some 1917 expense.

A. It does not say so. From December, 1917.

The Master: It does not say inclusive, though?

The Witness: It does not; no, sir.

Q. Did you look to see whether that was any December—

The Master: Objection sustained.

Mr. Chambers: How can he say that that is so?

The Master: I do not know. Objection sustained.

Mr. Chambers: If he did not examine this? 18915

The Master: I am limiting the cross-examination.

Q. Did it include any 1917 expense?

The Master: Objection sustained.

Mr. Chambers: I ask counsel on the other side to produce for me tomorrow morning this 1211.

The Master: 1211 what?

The Witness: Journal Entry 1211.

Mr. Chambers: Yes.

The Master: You have got it there.

Mr. Chambers: Well, the voucher.

The Master: There is no voucher. This is a calculation of some kind.

The Witness: There are some papers underlying that.

The Master: I will not direct that that be produced. They have no bearing.

Mr. Chambers: I ask for it for the purpose of determining whether that December, 1917, applies for December, 1917, the record being ambiguous.

18917 The Master: I had hoped that when we had Mr. Teele under cross-examination you could point out some defects that were of some importance. This business of testing does not get us anywhere.

Mr. Chambers: I do not think your Honor appreciates what is purported to be done here.

Q. What data did you examine for that?

The Master: For what? That Entry 1211?

Mr. Chambers: Yes, 1211.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. For the operation of the general office building
18918 there seems to be no journal entry number. What did you have for that? There is nothing here.

A. The item in question in the ledger was posted from the operating journal, Entry No. 1097.

Q. Found on page 399?

A. Found on page 399.

Q. Of Exhibit 191.

A. And reads: "Transferring an amount carried in general suspense representing cost of operating the general office building for the benefit of this company and the various tenants for the month of December, 1918, to following accounts, charging to operating ex-

pense the proportion applicable to the various departments of the Consolidated Gas Company and to the miscellaneous operating expense account the proportion applicable to that portion of the building from which a revenue is derived based on the square feet of floor space occupied, as shown by the statement prepared by the engineering department and approved by the engineer of construction on file." Then follows the various operating expense accounts of the Consolidated Gas Company which are charged with their share as indicated by the entry, of which the 15th Street branch is charged as its proportion, $954.49. 18920

By the Master:

Q. You did not figure the square foot area?

A. No, I took the square feet referred to in the papers underlying this, and referred further to the square feet of space occupied as shown by the engineering department.

Q. You took that report as your justification for passing that item, did you?

A. I did.

By Mr. Chambers:

Q. What report did you have?

The Master: The one mentioned in the journal.

18921

Q. Did you have any other data?

A. That and the various papers filed as the underlying data to that entry.

Q. Can you identify any of those? You said various papers?

Mr. Goetz: I object to that. Shall we cover the ground again?

The Master: I will sustain the objection. If I thought it were important enough, I would have them brought here, but it is not important enough.

Mr. Chambers: I move that this item be stricken out.

18922 Arthur W. Teele, Cross.

The Master: Motion denied.

Mr. Chambers: Exception.

The Master: I hope you do not expect, Mr. Chambers, by makng applications at this time to strike out items, to avoid pointing out when the case is concluded what items you want me to disregard?

Mr. Chambers: No, I want to call your Honor's attention to an improper amount.

The Master: I won't strike out anything at this time. I may disregard some items when I
18923 come to final calculations, but they will have to be called to my attention when the case is all in.

Q. Now, there is a charge for ice?

The Master: You did not weigh the ice, did you?

The Witness: I did not.

Q. Do you know whether the ice was used for the entire building?

The Master: Objection sustained.

Q. Did you examine the underlying data for this ice charge?

The Master: Objection sustained.

Mr. Chambers: Exception.

18924 Q. Now, this charge here, Charles E. Fitchett, did you examine that to see what it was for?

The Master: Objection sustained.

Q. What was it for?

Mr. Goetz: I object.

The Master: If you recall, can you say without reference to the voucher?

The Witness: I can not say without reference to the voucher.

Q. Well, can you say if you refer to the voucher?

A. The voucher will speak for itself.

Q. Do you know whether it shows on its face what it was for?

Mr. Goetz: Objected to.

The Master: Objection sustained.

Q. Irvine & Wilcox Company, what vouchers or records did you examine to ascertain that charge?

The Master: Objection sustained.

Mr. O'Brien: Your Honor, may I interrupt a minute just to state that Judge Ransom said several times yesterday and the day before that Mr. Sangster, doing work for the defendant, Edward Swann, had been carrying around certain papers.

The Master: Yes.

Mr. O'Brien: They are supposed to be memoranda attached to vouchers? 18926

The Master: Yes.

Mr. O'Brien: And he pointed to that matter as—

The Master: I know what he said. Now, have you got them here?

Mr. O'Brien: They would be required. I have delivered them today to Mr. Goetz, of counsel for the complainant.

The Master: Identify what you are delivering.

Mr. O'Brien: Three papers.

The Master: The first one is marked Consolidated Gas Company, gas purchased from the New York Mutual Gas Light Company for calendar year 1918; the second one is headed, "Consolidated Gas Company of New York, gas exchanged with the Standard Gas Light Co. during the calendar year 1918; the third one is headed, "Consolidated Gas Company of New York, gas exchanged with the New Amsterdam Gas Company, year 1918." They are being delivered to Mr. Goetz. 18927

Mr. O'Brien: Yes. I want to call your Honor's attention to the fact that they do not

18928 Arthur W. Teele, Cross.

contain the information that one would gather from Judge Ransom's remark was contained in that memorandum. They do not give the details of computations, and hence Judge Ransom can not refer to the vouchers as speaking for themselves and containing with the memorandum the details that we sought to get in the cross-examination of the witness then on the stand.

The Master: Next question.

Q. This expense for commercial distribution and supplies, page 27, folio 961, did you examine the various vouchers that go to make that up? For instance C. H. Shoats.

18929

The Master: Sustain the objection on the ground the witness has testified that he or his men under him went through and checked up every voucher for 1918.

Mr. Chambers: I take it you won't allow me to ask any more questions on this?

The Master: You had better ask another question or two and you will see what I intend to do.

Q. Now, the Municipal Lighting Company, Incorporated, did you examine that voucher?

The Master: Objection sustained.

18930 Q. What was that for?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. In this promotion expense, I won't ask only about certain ones, so that Mr. O'Brien can cover the others.

The Master: If I let him.

Mr. Chambers: I refrain from asking about that, so that he can cover it.

Q. Operating restaurant—

The Master: That is an item of $30.54.

Mr. Chambers: Yes.

The Master: Don't waste any time on it.

Mr. Chambers: Well, will your Honor throw that out?

The Master: Oh, no. That speaks for itself. Don't waste any time on $30.

Q. What was that for, that operating restaurant?

The Master: Objection sustained; it speaks for itself.

Q. Well, do you know whether it was for food or—

The Master: It was for operating restaurant. I don't care what is was for, $30.64 for a whole 18932
year. If your time isn't any more valuable than that, I have got to insist that my time is.

Mr. Chambers: If the Master please, it is not a question of time, it is a question of an improper item. If there was only a dollar in there somewhere it shows the whole thing is wrong.

The Master: Isn't it your contention that no part of the expense for operating the restaurant should be charged?

Mr. Chambers: Yes.

The Master: And this is operating restaurant.

Mr. Chambers: I don't know what view your 18933
Honor holds. If I knew you would throw out everything that relates to operating restaurant—

The Master: What difference does it make?

Mr. Chambers (continuing): —I would not ask any questions about it but just enough to sustain the finding you would make on it.

The Master: What difference does it make what my view is? You have sufficient on the record to indicate what operation of the restaurant means and what it refers to, and if necessary you can refer to any book or voucher that

supports these, underlying, to make it clear; you don't have to waste time here. I don't have to say now whether I am going to throw it out or leave it in.

Mr. Chambers: Well, I have to make the record carefully to show what it is.

Mr. O'Brien: Your Honor the point involved here is the slipshod way in which that account is kept, the method of distribution in that account.

The Master: Next question.

Q. Take this item for "Miscellaneous," $432.35,
18935 what is that for? There doesn't seem to be any journal entry or any voucher number. Next to the last column headed "Miscellaneous"?

A. That happens to be a column footing?

The Master: That is an answer.

Q. What did you say it was?

A. A column footing.

The Master: Therefore there is no reference to a journal or a voucher.

Q. What is it for?

The Master: Look at the item.

The Witness: The footing of the column.

The Master: Look at the other items making
18936 it up and you will see what it is for.

Q. Oh, I see.

The Master: Mr. Chambers points out one debit item in this account under the name of Chapin, $100, and the witness says that that will be found in Voucher No. 10696.

Mr. Chambers: And I find another here being $100, Voucher No. 8788.

The Master: Who is that?

Mr. Chambers: Chapin.

The Master: Do you recall who Chapin is?

The Witness: I do not.

Q. And then we find $200 of it. Here is another $100 to Chapin, Voucher No. 6679, and here is another to Chapin, $74.21. None there (indicating). He seems to be miscellaneous, doesn't he?

A. Credit.

Q. There is another, the same Chapin, that is voucher No. 3452, here is another $100, Chapin, 4295.

The Master: What is that, a hundred a month?

Q. Who is he?

The Master: The witness says he doesn't 18938
know. What is that, $100 a month, apparently?

The Witness: Yes, $100 or $125, I am not sure which. It is $100 in March and $100 in—

Q. (Interrupting) Here is $100 in February?

A. Yes.

Q. Voucher 2097.

The Master: What are the credits?

Mr. Chambers: The amount at the end is $432.35.

The Master: What are the credits in this account? Find one of those and give us an idea of what it is.

Mr. Chambers: We would like to have Mr. 18939
Chapin's voucher produced.

The Witness: Give me the Sundry Debtors Blotter covering the month of April, 1918.

The Master: Chapin was that Consulting Engineer we heard about, wasn't he?

Mr. Goetz: He is a Consulting Engineer.

The Master: Mr. Brundage testified about a consulting engineer that they paid one hundred dollars a month. That is in the record.

The Witness: Part of this is charged against Sundry Debtors. Do you want that credit looked up, Mr. Gilbert?

The Master: Yes.

Mr. Chambers: I assume that your Honor is preparing to adjourn?

The Master: Until 2 o'clock.

Mr. Chambers: I protest, upon the ground that this is the first notice and knowledge that I have had that we would go on this afternoon, and I am obliged to spend the afternoon and evening in finishing my Reply Brief in the Albany gas case. I will have no other time to devote to that, having set aside everything to complete

18941 it.

Mr. O'Brien: On the assumption that we have our afternoons free, I have made engagements for every afternoon. This afternoon I have three very important appointments besides doing work in connection with this case. I am going into a memorandum submitted on the admissibility of the record of two deceased witnesses. I have got the Bronx Gas Electric appeal before the Appellate Division to prepare. I am finishing up some work on the Brooklyn Borough case. We are intervening in the Jamaica Gas Light case, preparing to intervene this week.

18942 There is an argument coming up on their motion for an injunction pendente lite next Monday. There are numerous other matters that are awaiting, including several very important drafts of opinions.

The Master: I am not a bit interested in anything that any counsel has to do outside of this case. I am going to finish this case.

(Discussion off the record.)

The Master: I am going on from 2:00 to 4:00 today.

Mr. O'Brien: Will your Honor permit me

to record my protest, first, because you have not given us any notice until just this minute that you are going on; secondly, because every request that I have made so far for adjournment, and for consideration to suit the convenience and demands of my office, has been overruled.

On the further ground that I have made appointments on official matters for this afternoon, and I need the afternoon outside of that for the preparation of the cross-examination of Mr. Teele.

The Master: If Mr. Chambers finishes his 18944
cross-examination earlier than four o'clock I will adjourn for the day. I will not force you on this afternoon. Next week you men must have in mind that I shall try to run the case every afternoon from 2:00 to 4:00, in addition to the morning session.

Mr. Chambers: You should not compel us to go from nine o'clock if you do that.

The Master: I think it much better to go on from about nine-thirty, when we usually start, to one, and then from 2:00 to 4:00, rather than start in at ten o'clock and run to one, and then from 2:00 to 6:00. 18945

Mr. O'Brien: There is no reason in law or fairness or anything else why you should compel us to go on the hours you have just stated.

The Master: There is no reason in the world except my feeling of obligation to this case why I should go on those hours.

(Discussion off the record)

Mr. Chambers: I respectfully protest against being compelled to go on this afternoon, notice just having been given to us at one o'clock, by the Master, of his intention to do so.

The Master (to the Witness) Answer the last question.

The Witness: It is the proportion of that expense which is charged to other companies.

The Master: What book are you referring to?

The Witness: Sundry Debtors Blotter No. 47, Folio 272.

The Master: What do you find there?

The Witness: On it is added the amount of $81.70 in the month of April, being credited to
18947 this account. It is part of the distribution of charges made against the Standard Gas Light Company, New York Mutual and other companies for the cost of maintaining the Promotion Department for the month of April, 1918.

The Master: Before we adjourn, Mr. Chambers, if you would rather have this afternoon's session, you and Mr. O'Brien, on Friday, or tomorrow than today, in view of the short notice I have given you, I will do that. Now you can take your choice. I am going to run two extra hours this week. If you prefer I will do it tomorrow or on Friday.

18948 Mr. Chambers: That is, you will go on Friday from 2:00 to 4:00 instead of this afternoon?

The Master: If you prefer.

Mr. Chambers: Of course I do not want to go on at all, but I have this afternoon and tomorrow engaged, and if I am obliged and compelled to go on Friday I would prefer that to going on today.

The Master: We will adjourn until tomorrow at 9:15 with the understanding that on Friday

we will go on from 9:15 to 1:00, and 2:00 to 4:00.

Mr. O'Brien: Of course I do not want to be understood as acquiescing in that.

Mr. Chambers: I do not, either, I still protest.

Adjourned to Thursday, November 13, 1919, at 9:15A. M.

Last Complainant's Exhibit 373
Last Defendant's Exhibit "ZZ."

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CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 18955

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 13, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.

MR. CHAMBERS, of Counsel for defendant Newton.

MR. HAYWARD, MR. CLARK and MR. NEUMAN, of Counsel for Public Service Commission. 18956

MR. O'BRIEN, of Counsel for defendant Swann.

ARTHUR W. TEELE, resumed the stand.

CROSS-EXAMINATION CONTINUED BY MR. CHAMBERS:

Q. Take this item of "Gas Logic", $9,600.76, under your item of Commercial Expenses of $1,012,592.48, you found that, did you in this operating ledger B, 1918, at folio 979, under the subhead of "Gas Logic". 18957
That is where you got it from?

A. That is where I got it from.

Q. What did you examine back of that entry?

A. I examined the voucher and entries underlying this total figure which are referred to in this account.

Q. Will you please give me the vouchers we called for yesterday, legal expenses, and we will clean that up. All the vouchers we called for yesterday?

A. Yes sir (handing paper).

Q. Now, we were speaking yesterday of this sub-

18958 Arthur W. Teele, Cross.

head "Legal Expenses". Where is that in Exhibit 205, do you remember?

A. Folio 1037.

Q. What page?

A. Folio 1037.

Q. Now, you said yesterday in answer to my questions that you examined these vouchers or some vouchers, and now you have produced the vouchers you examined for the legal expenses?

A. Yes, sir.

Q. Found on page 1037?

18959 A. Yes, sir.

Q. Of this operating ledger B?

A. No, not found on page 1037. 1037 is the legal expense account. The account represents monthly charges to legal expenses at the rate of $5,000 a month which is credited to suspense legal expense, against which are charged the vouchers as paid, and at the end of the year, if the amount so set up as an estimate at the rate of $5,000 a month exceeds the amount of the actual expense, then there is a reversal of the entry which is shown on this folio 1037.

Q. But these vouchers—

18960 A. These are the vouchers representing the actual legal expenses charged to cost production, or cost of distribution, in the year 1918.

Q. And are the only underlying vouchers you examined in connection with legal expenses?

A. And are the only underlying vouchers in connection with legal expenses. There are other vouchers than these vouchers, because these are the only vouchers—there are a few items of pay roll amounting to—

Q. (Interrupting.) Have you those, too?

A. The items from the pay roll charged into the

legal suspense account amount to a total during the year of $1,621.65, of which there is $671.31 charged to other companies, so that the net amount standing in this account from the pay rolls is $950.34.

Q. That $950.34 is in addition to these vouchers?

A. In addition to these vouchers.

Q. And together they make the legal expenses that you have set up?

A. Together with one other voucher which I think you have here.

The Master: New Amsterdam?

The Witness: No. For $43.32. It is a payment to the same man whose name is on the pay roll, and that is a readjustment of his salary, a prior period, and it was charged in here. It is $86.64, of which $43.32 is charged in this account, and the other half charged to claims and arrears, where one-half of his salary for the year is charged; so that the pay roll items, together with those vouchers, amount to the total amount of legal expenses for the year. 18962

Q. What was that $950.34 for, this part of legal expenses?

A. It is one-half of the monthly salary paid to P. W. Ruther, an attorney, and amounting during the year to $1,428.32. It is one-half of the salary paid to Richard W. Smith, an assistant attorney for the month of January, $110, and one-half of the salary paid to Henry O. Smith, an assistant attorney for the month of April, $83.33, the total of these pay roll items amounting to $1,621.65, and part of the salary paid to these men is charged against other companies because of their services in claims and arrears expense, the claims and arrears expense being distributed on the basis of the meters on the district owned by the 18963

companies participating in this expense as of December 31st prior. That expense in 1918 was divided on the basis of the Standard Company 6.94 per cent, New Amsterdam Company, 12.19 per cent; Central Union 12.37 per cent; Northern Union, 7.72 per cent and the New York & Queens Gas Company, 1.14 per cent.

Q. Did you know who made those adjustments that you have just given?

A. What do you mean by adjustment, who made the basis of division among the companies?

Q. The proportion.

18965 A. Mr. Brundage testified that he did.

Q. And do you know what services these men—what legal work these men were engaged in whose names you have just last mentioned, yourself?

A. Other than what appears to be his services in connection with claims and arrears.

Q. You don't know what those services were?

A. Just what an attorney does in that connection I cannot tell you.

Q. More than that, you cannot say whether it was devoted to the cost of production and operation of gas, more than you have given?

18966 A. Claims and arrears is an operation in connection with the distribution of gas.

Q. You think it is?

A. I think it is; and production of gas.

Q. Now, here is a bill, you produce a voucher here, Sherman & Sterling, January 2, 1918, for professional services. That does not indicate, does it, in any way, what services they rendered?

Mr. Ransom: Objected to.

The Master: Objection sustained. The voucher is here and speaks for itself.

Mr. Chambers: I offer in evidence Voucher

Memorandum of Account of S. Decker for $126.50.

The Master: I think it will be better to take them all in.

Mr. Chambers: No, I don't want some of them.

Mr. Ransom: All of these vouchers are part of the record.

Mr. Chambers: No, I don't want them all in. I am going to select what papers I want in this case.

The Master: All right, you select what you 18968
want. They will be received as a defendants' exhibit then.

The voucher was marked Defendants' Exhibit AA-1.

The Master: The stenographer will note that the paper which is marked Exhibit AA1 in evidence is one of the vouchers produced in support of the item of legal expense.

Mr. Ransom: Pursuant to Mr. Chambers request.

The Master: In pursuant of Mr. Chambers request.

Mr. Chambers: I offer in evidence Voucher 18969
No. 17,496.

The Master: Being another one of the vouchers produced at your request in support of the legal expense item. It will be received and marked.

Marked Defendants' Exhibit AA-2.

Mr. Chambers: I will offer in evidence Voucher No. 11,533.

The Master: Being another one of the legal expense vouchers.

18970 Arthur W. Teele, Cross.

Mr. Chambers: To Towner—Neile F. Towner.

Marked Defendants' Exhibit AA-3.

Mr. Chambers: I offer in evidence Voucher No. 13,533, to D. Cady Herrick, $250.

Marked Defendants' Exhibit AA-4.

Mr. Ransom: Is that all you are going to offer?

Mr. Chambers: Yes.

Mr. Ransom: I think I would like to have the rest of them considered marked.

18971 The Master: What is that?

Mr. Ransom: I would like to have the rest of them considered marked.

Mr. Chambers: Not while I am cross-examining.

The Master: Yes, they will be marked now.

Mr. Ransom: Being the other vouchers produced in pursuance of the request of Mr. Chambers.

Mr. Chambers: To the others I object upon the ground that they are incompetent, irrelevant and immaterial.

The Master: The remaining vouchers num-

18972 bered 3,338, 4,695, 11,407, 17,834, 968, 320, 4,712, 6,141 and 8,880 will be marked as one exhibit for the complainant.

Mr. Chambers: To those vouchers I object as incompetent, irrelevant and immaterial no foundation having been laid for their admission and no evidence to show that they are accurate.

Marked Complainant's Exhibit No. 374.

Mr. Chambers: Do you feel this is the same as part of a letter?

The Master: Part of a voucher supporting the legal expense item.

Mr. Chambers: I offer one voucher here in evidence in this case and the whole business is in, and any man can offer all the rest.

The Master: I think anything you have had access to up there for examination is in.

Mr. O'Brien: That is contrary to your Honor's ruling, that you were taking the books of account without the underlying data. We were asking you to receive them all in evidence and you ruled against it. You said these were books of original entry and you had strained the law to consider them books of original entry, and we 18974
were asking at that time that these matters of original record be produced in court, that the witnesses be produced and enough of tests be adopted to prove their accuracy on the witness stand as would be adequate to cover the whole situation.

The Master: I know the situation perfectly.

Q. Did you know what services D. Cady Herrick rendered?

The Master: Of course he does not. Objection sustained.

Mr. Chambers: Exception.

Q. Did you make any inquires? 18975

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Did you go behind this voucher No. 13,533?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Did you ask anybody what the services were for?

The Master: Objection sustained.

Q. The services rendered by Mr. Decker?

The Master: The same ruling to all questions of the same character.

Mr. Chambers: Exception.

Mr. O'Brien: Your Honor, would it not be a proper thing for an accountant going over these matters, to find out whether they were the Consolidated's matters or other matters?

Mr. Chambers: How can we find this out?

The Master: I do not think you can tell. He does not know. The record is perfectly clear that his business was to make sure that there were vouchers supporting charges; he did not go down and cross-examine the lawyers to see what work
18977 they did. What is the use of wasting time on that? Whatever there is in the point, the point is there.

Mr. Chambers: How do we know whether to include them or exclude them?

The Master: I do not know how you are going to know.

Mr. Ransom: This is a case where there are seventeen million dollars of receipts and $42,000 a year of legal expenses.

The Master: It is perfectly apparent that you do not know and he does not know, and I will not know precisely, whether all or any part or
18978 what part of these legal services or other services were used in the gas making business. There is no use wasting time on those things.

Q. Have you the other vouchers that you were asked to produce?

The Master: What other vouchers do you want now? Mr. Goetz, were there any other vouchers but these legal expense vouchers that were called for?

Mr. Goetz: There were two other vouchers which your Honor ruled need not be produced—

one was a Restaurant voucher for $36, the other was another small voucher.

The Master: That is what I thought. That was my recollection; that is the reason I asked you what else you wanted.

Mr. Chambers: Give me time to read the record.

The Master: The trouble is you are not serious in a lot of things that you ask for. When I try a case I ask for the production of a paper and I remember what I have asked for, and it never gets away from me. If you really intended to 18980
have those things here you would have remembered what you wanted.

Mr. Chambers: I want all the vouchers here on every one of these.

The Master: They will not be here. I will not do that.

Mr. Chambers: I would like to have them right here in court. I think they should have been proven originally in the proper way and should be produced.

The Master: I suppose you want me to order Sherman & Sterling to come down here and testify as to the services they rendered? 18981

Mr. Chambers: Yes, I would. I would like to find out what the legal services were for.

The Master: You would like to have eighteen thousand witnesses in this case on eighteen thousand vouchers.

Mr. Chambers: When a matter is charged to gas operating expenses your Honor admits now nobody knows what these services were for.

The Master: I may throw it out; but let us get along.

Mr. Chambers: We have no assurance of it now. If we knew what you were going to do we would proceed along a different line.

The Master: But you have made your record. You have shown the situation with regard to the legal expense.

Mr. Chambers: I would like to tie it up so thoroughly that nobody can crawl out of it.

The Master: Do not worry about tying it up. Let us get ahead.

Mr. Chambers: When this case is over with I
18983 want everything covered from our viewpoint.

Q. To return to this "Gas Logic," did you examine any vouchers for this expenditure for "Gas Logic" found on page 979?

A. All the vouchers for 1918 were examined.

Q. Was there included in that the salary of R. E. Livingston?

The Master: I think that has been covered.

Mr. Chambers: It has been covered?

The Master: I think so. It seems to me that you went through that "Gas Logic" very exhaustively.

Mr. Ransom: That was with Mr. Brundage.
18984 The Master: Yes, that was Mr. Brundage.

Mr. Ransom: I asked that specific question and got an answer.

Q. Was his salary in there?

Mr. Ransom: I object to the question as fully covered.

The Master: I will sustain the objection.

Mr. Chambers: Exception.

The Master: It may not have been fully covered in the cross-examination of this witness, but I do not think it is essential in the cross-examination of this witness; I do not think it is useful.

Q. This "Gas Logic" did you know what the expenditure was for?

Mr. Ransom: Objected to.

The Master: Objection sustained. I think you have got "Gas Logic" sufficiently clear on the record to obviate the necessity of cross-examining this witness about it.

Q. Were the expenses of R. E. Livingston included in "Gas Logic"?

The Master: I have sustained that objection several minutes ago.

Mr. Chambers: I asked that as to his salary, 18986
and you sustained that, but not as to his expenses.

The Master: I will sustain the objections to expenses, too.

Q. Did you examine anything back of the vouchers for "Gas Logic"?

A. What do you mean back of the vouchers?

Q. You took the expense from this operating ledger and back of that you said you examined the vouchers. Did you go a step further back?

Mr. Ransom: Back of what?

A. Back of what?

Q. Did you use anything back of the vouchers? Isn't that as plain as can be? 18987

The Master: Did you call for the man who did the printing and examine him?

The Witness: I did not.

The Master: Did you go to his plant and look at his records?

The Witness: I did not.

Q. Did you examine any other data except the vouchers themselves?

A. In relation to the vouchers themselves?

Q. Yes.

A. No, the vouchers themselves are evidence.

18088 Arthur W. Teele, Cross.

Q. In relation to anything, did you examine anything beyond the vouchers, or did you begin there. That is plain, it seems to me?

Mr. Ransom: I object to the form of the question.

The Master: No, it is not plain at all. As to matters entered in the books indicating a payment because of a bill rendered, you looked at the vouchers?

A. I looked at the vouchers.

The Master: And you didn't go beyond the

18089 vouchers?

The Witness: I did not go beyond the vouchers.

Mr. Chambers: That is what I have been asking him over and over again.

The Master: No.

Mr. Chambers: I asked him if he examined anything except the vouchers?

The Master: No, your question was so broad as to include pay rolls, and a lot of things. Look at the record and you will see.

Q. Now, the item of newspaper advertising, $17,579.06, what did you examine for that expense?

18090 The Master: I am going to sustain objections to this line of questions. I do not think it is useful.

Mr. Ransom: Either the company is entitled to advertise or it is not.

The Master: I do not think this line of inquiry is useful. If you can show where this witness, taking these books has improperly tabulated something. I will let you show it, but I think the record is clear enough as to what this witness did in making up his tabulation.

Mr. Chambers: Your Honor has admitted

in evidence Exhibit 364, which says at the top, "Cost of Production and Distribution of Gas."

The Master: That is what I say, the basis upon which he made that tabulation—

Mr. Chambers: I think I have a right to inquire and find out if this expenditure is cost of producing gas.

The Master: But I say I think you have sufficiently shown what this man did in making up these figures to avoid further inquiry on that point. I will sustain the objection.

Mr. Chambers: Exception. Your Honor then 18992
will not permit me to ask any more questions about newspaper advertising?

The Master: No, I am not holding that at all. If you have any proper question with reference to newspaper advertising you can ask it.

Q. You found out, did you not, that the Consolidated Gas Company does, or did do all of the newspaper advertising for the other companies?

Mr. Ransom: I object to that.

The Master: I will let him answer that.

A. I don't remember.

The Master: You don't remember whether
the Consolidated Company paid all the expense 18993
and apportioned it, or whether each company did its own advertising?

The Witness: I do not recall.

Q. Did you ascertain what the newspaper advertising was for?

The Master: Objection sustained as not useful cross-examination. I assume it was to advertise appliances, the use of appliances.

Mr. Chambers: It is not. Now, if your Honor is going to decide this case on what you assume—what is the fact now about newspaper advertising? What was it for?

The Master: Have your experts had access to the records?

Mr. Chambers: Well, when you find vouchers like Neil Towner, what information does that give as to what it is for?

The Master: Isn't it perfectly easy for you to call for such vouchers as will show the point that you want to bring out?

Mr. Chambers: If your Honor is going to shift the burden to the defendants—I think you have—that is another question.

18995 The Master: I will sustain the objection.

Mr. Chambers: Exception.

Q. Have you these vouchers for newspaper advertising in court, any of them?

A. I have not.

Q. Have you your working papers?

Mr. Ransom: What working papers?

Q. On newspaper advertising?

The Master: What working papers do you refer to, Mr. Chambers?

Q. This voluminous data that you have been using here from time to time?

The Master: Objection sustained.

18996 Mr. Chambers: Exception.

Q. Now, this item for Gas Art Commission, you obtained this from the operating ledger?

The Master: Objection sustained.

Q. What vouchers did you examine to ascertain what the Gas Art Commission was for?

The Master: Objection sustained.

Q. What was that expenditure for?

The Master: I will let him answer that.

A. I do not now recall the details shown by the vouchers charged to this particular item. If the Master desires I will be glad to ascertain what it is.

I cannot recall at this time the details of all these items.

Q. Why did you put it in the cost to distribute?

The Master: I think that is a perfectly useless question. Objection sustained.

Mr. Chambers: Exception.

The Master: He put it in because he thought it belonged in.

Mr. Chambers: If he did not examine the vouchers how can he know anything about it?

The Master: He said he examined the vouchers for everything on his record. 18998

Mr. Chambers: He cannot now tell what it is for.

The Master: Of course not.

Mr. Ransom: No one who examined that number could recall all of them.

Mr. Chambers: I will take an exception.

Q. Now, the item for operating general office building, what was that for?

The Master: Objection sustained. It says for operating the general office building.

Q. Did you examine anything in addition to the vouchers to ascertain that this was a distribution expense? 18999

The Master: Objection sustained upon the ground that the witness has told us in great detail how he made his examination.

Mr. Chambers: Exception.

Q. Why did you put that in here as an operating expense?

Mr. Ransom: Objected to.

The Master: Objection sustained. The witness's judgment was that is was an operating expense, with which you and I may or may not agree.

19000 Arthur W. Teele, Cross.

Mr. Chambers: The Master is testifying for the witness; the witness has not said that yet.

The Master: Well, I am saying it.

Mr. Chambers: If you will let me cross-examine you on that I will be glad to.

Q. Was it the total expense of operating the general office building, or was it some apportionate made?

Mr. Ransom: Objected to.

The Master: I will allow that, but I think it is fully covered in the record.

A. It is covered in that journal entry which I read
19001 day before yesterday, which was referred to, showing the distribution of the operating expense of the general office building charged to the various accounts of the Consolidated Gas Company, which are a proportionate part of the operation of the building.

The Master: Based upon a square foot area?

The Witness: Based upon a square foot area.

The Master: That only shows how time is being wasted here.

Mr. Chambers: Now, the item for rent, what was that rent for?

The Witness: I don't remember.

The Master: The records shows, I am quite
19002 sure, that it was an appliance office at Madison Avenue or 42nd Street, somewhere along there.

Q. You examined no vouchers for that?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Now, "Incidentals," what was that for?

Mr. Ransom: Of course that is not altogether a sound objection, but the different items, including this item of incidentals in this account—

The Master: I am going to let the witness say.

A. I don't know.

Mr. Ransom: Mr. Brundage was specifically interrogated about that and explained it.

The Master: Well, the witness says he doesn't know.

By the Master:

Q. Mr. Teele, just to make this clear to Mr. Chambers, you didn't undertake to review the action of the employees or officers of the Gas Company in charging certain things to certain accounts, did you?

A. We examined the vouchers—

Q. No, if a legal expense was charged, did you undertake to say that the lawyers should not have been 19004
employed?

A. No.

Q. Or that their service was not useful?

A. No.

Q. When you found that Gas Logic was charged to production, did you undertake to say that it should not have been charged to production?

A. No.

Q. When you found the miscellaneous expenses were charged in the operating account did you undertake to say that that should not have been incurred?

A. If it appeared to us that it should not have been incurred we would have questioned it in the examina- 19005
tion.

Q. How?

A. We would have raised the question with the official who had approved the voucher for the expenditure, if it seemed it was an expenditure that was not in accordance with what was intended.

Mr. O'Brien: I think the witness—

The Master: I think you will keep quiet until I get through.

Mr. O'Brien: When you get through I would like to say something.

The Master: Wait until I get through.

Q. Do you recall any instance where you rejected a credit or debit in these accounts as you found them?

A. I do not.

Mr. Ransom: There is one right on the face of this.

The Master: What is it?

Mr. Ransom: "United War Work Campaign" on page 29 of Exhibit 205.

Q. As a matter of fact, with the possible exception of the item that Judge Ransom has just referred to,
19007 you did not find occasion to question any of the things done by the company?

A. I do not now recall that we took exception, we didn't question, but I do not recall that we took exception to any of the expenditures as charged by the company.

Q. What I want to know is whether you are prepared to do more than to say that this tabulation correctly tabulates the figures that you found on the books, as they were segregated to the various accounts and charged to them?

A. That is what this does, it represents the tabulation of the accounts as they are shown on the books
19008 of the company.

The Master: Let me ask you, Mr. Chambers, do you understand this witness's testimony is offered for the purpose of justifying these items?

Mr. Chambers: Certainly.

The Master: Or for the purpose of showing a tabulation of the book items?

Mr. Chambers: It is offered as conclusive proof that all this money was spent in the cost of the production and distribution of gas as appearing from the books.

Mr. Chambers: This witness is offered as a

witness, he has passed his judgment as indicated by these papers, that these items should be in cost of production, and that this other item should be excluded, and he has used his judgment, and your Honor will not permit me to show it. I want to show what foundation he had for including certain items.

The Master: Judge Ransom, do you believe that I ought to take Mr. Teele's testimony as to his judgment as to whether these items were correctly charged or not?

Mr. Ransom: Well, I think his judgment is a 19010
factor.

The Master: Do you think I am bound by that?

Mr. Ransom: Not bound by it.

The Master: Or guided by it at all.

Mr. Ransom: I think you should be aided by it greatly.

Mr. Chambers: That makes a good deal of difference.

The Master: I will announce now that I have taken Mr. Teele's testimony simply on the point that he has examined these books, that he has checked them with the vouchers, that he has 19011
checked them with the underlying pay rolls and other data, that they were correctly kept, that they were kept in accordance with the requirements of the Public Service Commission, and that he has prepared certain tabulations based upon those figures, which he has produced in court for the convenience of the Master, and that is all.

Mr. Ransom: The witness has also testified that he found these items correctly charged in his judgment.

The Master: Well, I will not take his judgment.

Mr. Ransom: The witness examined these vouchers.

The Master: Yes, I won't take his judgment.

Mr. Ransom: You certainly are not bound by his judgment.

The Master: No, I do not see how I can take it at all. It is his conclusion.

Mr. Ransom: But here is a man who by reason of his standing and experience in the accounting
19013 profession, is qualified as an expert to pass on the question.

The Master: No.

Mr. Ransom: He has prepared this tabulation. It is in the first instance a tabulation of the way in which these figures, these various items, are charged according to these books.

The Master: I will take his tabulation, and I will take his statement that the books are correctly kept in the sense that it is a complete system kept in accordance with the Public Service Commission regulations, safeguarded in every way that a big organization like this can safe-
19014 guard its business and its accounts. I will take his statement that he checked them back with the vouchers, with pay rolls, with adjustment entries in journals; that he checked up the adjustments on the basis testified here by various witnesses; and I will take his testimony on all those things, and I will take his testimony that the operating ledgers and books show that the entries that appear in them, that the results follow as shown in Exhibits 305, 355, 364, 365, and 366, but of course I will not take his statement that it is his conclusion, his judgment, his opinion, that legal services were properly charged to operating expenses. Of course, I won't.

19015

Mr. Ransom: But this question, the question of the propriety of the incurring of particular legal expenses, of course, your Honor, can not take his judgment as to whether Shearman & Sterling should have been paid $25,000 a year, or $75,000 a year. The question of whether an item or vouchers for legal expenses have been charged in the manner prescribed by the uniform system of accounts, so that the item of $25,000 or $42,000, as it appears, directly states the outlays of the company for legal expenses, that is a matter upon which an accountant's judgment is helpful in this court.

19016

The Master: I have tried to make myself clear to counsel on both sides as to the extent to which I will take Mr. Teele's testimony. If that will shorten the cross-examination, I shall be glad of it. If, on the other hand it leads Mr. Ransom to feel he must submit additional proofs, that is something that he wants to decide for himself. But the point is that I want to make clear to counsel how far I am going to take this witness's testimony, and that is why I have been ruling out a lot of these questions.

19017

Mr. Chambers: Thank you.

Mr. Ransom: May I just ask your Honor one other phase of the matter? Public authority represented by these defendants prescribes a system of keeping accounts, requires certain items, certain kinds of outlay and certain kinds of income to be charged to those particular accounts.

The Master: Yes, I understand that.

Mr. Ransom: The company makes certain outlays and then charges to certain accounts. That is shown by the books.

The Master: Right.

Mr. Ransom: Now, the best way and the only way that I know of in the world of getting anything like an outside judgment as to whether those charges have been correctly made, is to bring in an accountant of standing and have him go over the vouchers and do what Mr. Teele has done, put his knowledge and his long experience and his high professional standing back of a certification to your Honor that these vouchers which he has examined showing outlays have been correctly charged to the various accounts kept on the books.

19019 The Master: Perhaps you don't get my point. When Mr. Teele says that incidentals of the character described in these vouchers should go in account 874-G, they are proper to include there under the uniform system of accounts, that is all right, his statement that that is the place for them to be; but his statement that that item is a proper charge to be considered in determining the cost of manufacture and distribution of gas, I will not take it. His segregation of the items into various accounts, and his statement that these charges have been properly segregated into the accounts as called for, I take that as a bookkeeping statement, but his conclusion—

19020 Mr. O'Brien: I demur to your Honor's—

The Master: If Mr. O'Brien will only keep his mouth shut until I get through, then you can demur all you please. (Continuing)—but his conclusion that having been segregated into the accounts, that it should be considered by me as an item of expense of making or distributing gas, I will not take.

Mr. Ransom: Well, I would not want you to take it.

The Master: That is my point. Now do you want to demur?

Mr. O'Brien: Your Honor, your ruling in part, your ruling just announced in part, concurs with the ruling which you made on page 2031 of the record, at which this very question arose in the beginning, and you clearly announced that.

The Master: (Interrupting.) In other words, I am consistent, am I?

Mr. O'Brien: In that respect; but you wavered a little bit when you got half way through your statement, and you diverted to a side track, and 19022
that is where I entered my little demurrer. Now, what I want to say—

The Master: (Interrupting.) My mind is pretty clear on what I think the order of proof is.

Mr. O'Brien: This witness has not qualified himself by sufficient tests, sufficient work, to be able to say whether or not a given piece of work expense should have been thrown into the capital account or charged up to operating expenses. There has been no pretense during his direct-examination that he undertook to pass judgment upon the allocation of an amount, although he has 19023
attempted to say that the division of the figures was correct, and that the accounts tallied and so on, in the way in which he described it. But there is a vast amount of work involved in this branch of the case that the witness has not qualified himself to cover, and has not made any attempt to cover. For instance, the large amount of investments made that are bearing interest that are bringing in a return, which are not being brought into this case by the complainant, I suppose on the theory that they are not properly

part of the gas making business, that is independent of the gas making business.

The Master: We will take that up later on.

Mr. O'Brien: Now, the witness has not attempted, your Honor, to distribute, say, all the expenses of general administration, charging up a part of them to that branch of the business that consists in loaning moneys or investing them in some other—

The Master: It would be perfectly simple to bring those things out in a very few questions.

19025 Next question, Mr. Chambers.

Mr. Chambers: I think we will save a lot of time here if I may have just a minute. I followed you wherein you stated that you would not consider, you would not take Mr. Teele's exhibits and testimony as any evidence whatever that any of those items were properly included in the cost of production and distribution of gas; but there is one point where you—

The Master: (Interrupting.) I don't want you to construe or to re-state what I have said. The record shows what I have said, and don't let us get into any argument about it.

19026 Mr. Chambers: That is a fair statement, isn't it?

The Master: I am not going to discuss it.

Mr. Chambers: I mean that is the way I understood it.

The Master: I don't know which way you understood it, but I will not make another statement on the subject. I have said all I am going to say.

Mr. Chambers: Well, I think if you make a statement to counsel that counsel ought to understand it so he can be guided accordingly.

The Master: If you have not understood what I have tried to say by this time, I won't go into any further discussion. If you think there are any questions you want to ask, in view of what I have just said to you, you may ask them.

Mr. Chambers: I suggest a conference for about ten minutes to see if we can not save time on cross-examination.

The Master: Well, do you really think it may be useful if I declare a recess?

Mr. Chambers: I do. I would like to see what the other counsel understood you to say. 19028

The Master: We will take a recess for ten minutes.

By Mr. Chambers:

Q. Will you please turn to your item of Miscellaneous General Expense, $62,944.94, found on Exhibit 364. We find that in Exhibit 205, at the bottom of page 28, set up in a little different way less the last two items on that page.

The Master: No, not less the last two items; less two items, Defensive Emergency Service, $100,251.89 and United War Work Campaign, $31,250, and the last item was Donations, $55. Two of the three last items. 19029

Mr. Chambers: Yes.

The Master: That is correct, is it, Mr. Teele?

The Witness: That is right.

Q. Donations is not out, is it?

A. It is not.

Q. That is found on Folio 1031 of the ledger?

A. Of Ledger B, 1918.

Q. Under that we have set up on Exhibit 205 an item, Publicity Expense, $10,060.57?

A. Yes.

Q. In the ledger here there was no such subhead printed and so one was written in, I see.

A. Yes.

Q. That is where you procured your amounts, from this ledger account here on page 1030?

A. Yes. 1031, is it not?

Q. Well, the sum total is on 1031. Did you proceed to place that expense for publicity under G-837? Did you do that?

A. I earmarked it G-837 as being the corresponding Public Service Account.

19031 Q. I mean you determined what subdivision in the uniform system of accounts of the Public Service Commission that expense should be placed under, did you? Did you do that?

A. I earmarked this account of expenditure by the Consolidated Company with the corresponding Public Service account for the same kind of expenditure.

Q. In other words, what I want to get at is, you made the determination as to where that expense should be put under the uniform system of accounts?

The Master: As to how it should be earmarked.

Q. As to how it should me earmarked—did you?

19032 A. Yes, sir, I went through those.

Q. You did not find that in the company's book?

Mr. Ransom: I object to the question. On the face of the books the Miscellaneous General Expense is at pages 1030 and 1031.

Mr. Chambers: That is not what I am getting at at all.

Mr. Ransom: Well, do not misrepresent it.

Mr. Chambers: I have not misrepresented anything. I am trying to follow certain lines suggested by the Master.

Q. The company had not determined, or you did not

find in the company's operating ledger or their records, where that expense should be put?

Mr. Ransom: I object to the question.

The Master: Do you mean by that, Mr. Chambers, that the company's ledger does not designate the account as G-837?

Mr. Chambers: Here is what I mean: When he started in to make this up, did he find that the company had already classified them just as he has them, or was that original work with him?

The Master: How was the account headed in the ledger? 19034

Mr. Ransom: Miscelleanous general expense, which is G-837.

Mr. Chambers: What I want to know is when he started out to make up this Exhibit 205—

The Master: What is the ledger account headed?

Mr. Chambers: Publicity expense.

The Witness: It is not. It is headed miscellaneous general expense.

Mr. Chambers: Miscellaneous general expense.

Mr. Ransom: Miscellaneous general expense, which is G-837.

By the Master: 19035

Q. That account you found under Miscellaneous General Expense in the ledger?

A. I did.

Q. Does the company opposite that account call it G-837?

A. It is not so designated in the ledger.

Q. Is there anything in the ledger to indicate that?

A. To indicate the number of it?

Q. Yes.

A. Nothing.

Q. In that there is a column headed "Publicity Expense"?

19036 Arthur W. Teele, Cross.

A. The company subdivided Miscellaneous General Expense for their own information.

Q. Into various accounts?

A. Under various headings, as indicated by the titles appearing on the ledger pages.

Q. And one of the headings to the columns is Publicity Expense?

A. Yes, sir.

Q. When you started to work on this account, for the purpose of earmarking the items in your Exhibit 205 schedule you put Miscellaneous General Expense
19037 in G-837; is that right?

A. I did, because Miscellaneous General Expense is the title of this account and G-837, Miscellaneous General Expense, is the title of the Public Service account.

Q. So that you earmarked it for the purpose of your tabulation?

A. I did, and for the purpose of ready reference.

By Mr. Chambers:

Q. Did you earmark it that way because you found the company had it under Miscellaneous General Expense?

The Master: That is publicity expense—did
19038 you leave it in?

Mr. Chambers: Just because the company had it?

The Master: Because you thought it belonged there?

A. Because I thought it belonged there. My examination of the expenditures collated under the heading "Miscellaneous General Expense" lead me to the conclusion that it was the same kind of expenditure as described in the inform system of accounts under the heading "G-837."

Q. So that you disregarded their classification as Miscellaneous General Expense?

Mr. Ransom: I object to the question.

The Master: Objection sustained.

Mr. Chambers: If the Master please, it seems to me you broke in there. What I want to find out is if he was a rubber stamp and put this publicity expense under Miscellaneous General Expense simply because he found the company had it, or did he use his independent judgment?

The Master: Ask him that question.

Mr. Chambers: That is what I was leading up 19040
to.

The Master: What is the use of leading up to it? Get to the question.

Q. Did you put this publicity expense under Miscellaneous General Expense as classified by the uniform system of accounts, because you found the company had done so?

Mr. Ransom: Objected to as incompetent.

The Master: I will allow it.

By the Master:

Q. Did you use your judgment or did you just take the company's classification there?

A. I followed the classification by the company, be- 19041
cause I had examined vouchers supporting the entries made in this account.

Q. Because you thought it was the place to charge them?

A. I did. I concurred in what the vouchers themselves showed.

Q. Did you think about it at all when you put it in G-837, as to whether it belonged there?

A. Yes.

The Master: Is that what you wanted to know?

By Mr. Chambers:

Q. You used your independent judgment about it? That is, you were not governed, or did not feel that you were bound or governed by what the company had done?

Mr. Ransom: I object to the question as incompetent.

The Master: I will allow it.

Mr. Chambers: This is very important now.

The Master: I do not know how important it is, but Mr. Chambers thinks it is. I am going to have Mr. Teele say whether he, as Mr. Chambers put it before, was merely a rubber stamp in making the tabulation, or whether in making the tabulation he put this publicity expense, and left it in Miscellaneous General Expense under G-837, because he believed as an accountant that is where it belonged.

19043

A. I believed as an accountant that the expenditures generally in Miscellaneous General Expense were the expenditures as shown in G-837 of the Public Service Commission regulations. I stated it in that schedule so that they could be readily referred to and the amounts readily checked.

Q. Did you use your independent judgment or did you feel bound by what the company had done?

19044

Mr. Ransom: Objected to.

The Master: I will allow the witness to say it.

Mr. Ransom: Everybody is bound by the law.

The Master: I will let the witness say whether it is his independent judgment that this is a proper classification as he read the Public Service Commission rules and regulations.

The Witness: Yes.

Mr. O'Brien: Your Honor, may I make a statement for the record at this time?

The Master: No.

Mr. O'Brien: We have had a cross-fire discussion here and I want to give you—

The Master: I will not permit it.

Q. Mr. Teele, take G-837 of the uniform system of accounts and tell us under what subhead of that G-837 you find any such thing as publicity expense?

Mr. Ransom: Objected to as incompetent.

The Master: Objection sustained. I will read the rule myself and see if I find it.

Mr. Chambers: I want to find out what justification he had for using his judgment. 19046

The Master: Objection sustained.

Mr. Chambers: Exception. There is nothing there about publicity expense.

The Master: You can show me that without cross-examining the witness.

Mr. Chambers: I do not want you to read the rule. If you take the stand I will cross-examine you, if the Master please, about it. But I want to find out from Mr. Teele what justification he had for putting this under Miscellaneous General Expense; where there is anything there that would justify it. If he will tell me the subhead I will try to find out where there is anything in that 19047 which gives him aid and comfort for putting anything under miscellaneous general expense.

The Master: The trouble with it is that you think it is important for you to have an argument with the witness and I do not.

Mr. Chambers: I do not want to have any argument with him; I want to put questions to him.

The Master: You have here in evidence the record of the Public Service Commission regulations and the witness says he believed it was proper under that regulation. Your argument is that

there is nothing in that regulation that justified it.

Mr. Chambers: No, I ask him under what subhead he would place that.

The Master: And the objection will be sustained. I do not see any use of it.

Q. What did you do to reach that conclusion that it should be under G-837?

Mr. Ransom: Same objection.

The Master: Objection sustained.

Mr. Chambers: Exception.

19049 Q. Did you examine the vouchers for that publicity expense?

Mr. Ransom: Objected to.

The Master: Objection sustained. He said he examined all the vouchers for all the items.

Mr. Chambers: Will the complainant produce the vouchers on that item?

The Master: They are all produced. They are all up at the office there and subject to inspection.

Mr. Ransom: They have had them for three months; we have not been able to get them most of the time. When we want any vouchers we

19050 have to take them away from the defendants.

Q. Did you ascertain what expense this was—what it was for?

Mr. Ransom: Same objection.

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Did you make any inquiries outside of the voucher as to why the company made this expenditure?

Mr. Ransom: Same objection.

The Master: Same ruling.

Mr. Chambers: Exception.

Q. What was the expenditure for that caused you to classify it under G-837?

Mr. Ransom: Objected to on the same ground.

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Did you consult with Mr. Carter or anybody else as to what this expense was for?

Mr. Ransom: Same objection.

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Will you please give us the information which you had which caused you to classify this under G-837? 19052

Mr. Ransom: Same objection.

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Were there any vouchers to substantiate this expense that you examined?

Mr. Ransom: Same objection.

The Master: Objection overruled.

Mr. Chambers: Exception.

Q. Did you examine the executive order of the president, Mr. Cortelyou, authorizing these expenditures?

Mr. Ransom: Objected to.

The Master: Objection sustained. 19053

Mr. Chambers: Exception.

Q. Did you talk to Mr. Cortelyou about it?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. How many expenditures under this heading of publicity expense did you find were made pursuant to an executive order?

Mr. Ransom: Same objection.

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Was there any receipt for any part of this publicity expense signed by Mr. Livingston?

Mr. Ransom: Same objection.

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Did you find on these vouchers already when you examined them some classification as to what account they should be put under in the uniform system of accounts?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Were the expenses to Mr. Livingston, a part of which if any found its way into this account, approved

19055 by the executive committee?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Now, take this "Publicity Expense"—did you examine vouchers, approve the items in there in regard to that expense?

Mr. Ransom: I object to that.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Did you go behind for further information the entries in this book, Vouchers Approved?

The Master: Objection sustained.

Mr. Chambers: Exception.

19056 Q. When you examined these expenditures under "Publicity Expense" did you pass any judgment as to whether it should be put under promotion expense or publicity expense?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Now, you placed an item for "United War Work Campaign" under this Miscellaneous General Expense in Exhibit 205?

Mr. Ransom: Objected to.

The Master: Objection sustained. It so appears.

Q. Why did you classify that as a miscellaneous general expense for "United War Work Campaign"?

The Master: That is a perfectly hopeless question, but I am going to let him answer it. Is that the way the company carries it on that ledger there, isn't that under that "Miscellaneous" 1030 and 1031?

Mr. Ransom: Yes, the company so classifies it.

The Master: Objection sustained.

Q. Later on you took that out?

The Master: Objection sustained. On Schedule 205 he didn't take it out at all. 19058

Mr. Chambers: Yes, he did, on page 29.

The Master: Well, I think the witness was wrong about it myself.

Mr. Ransom: I am inclined to think your Honor is right.

The Master: I have rendered an opinion with reference to the Federal Income Taxes, and Excess Profits Taxes, that things of that kind are proper charges.

Mr. Chambers: What is it for?

The Master: Donations.

Mr. Chambers: Is it? 19059

The Master: Why certainly.

Mr. Chambers: I will cross-examine the Master as to what it is for. I would like to know. Now, what is it for?

Mr. Ransom: United War Work Campaign.

Mr. Chambers: Yes, I want to know what it is for.

The Master: You mean the particular purpose of the war work?

Mr. Chambers: I want to know what the money was spent for.

The Master: You have not asked him that.

Mr. Chambers: Your Honor said you knew. I don't know.

Mr. Ransom: Don't the counsel remember the United War Work Campaign?

Mr. Chambers: Does that show on the record what is in my mind? If the Master knows what all these are for, passes judgment whether it should be in or out without knowing what it is for, we might as well sit down.

The Master: You haven't asked any ques-
19061 tions about that. You have asked why was it included in Miscellaneous General Expense. Because the witness thought it ought to be there, and the company so classified it.

Do you recall what that has reference to, "United War Work Campaign"? What was it?

The Witness: A contribution by the company to the United War Work Fund.

Q. And you classified it not as miscellaneous general expense here on Exhibit 205, didn't you?

Mr. Ransom: I object to that.

The Master: Objection sustained.

Q. Why did you classify it as 932?

19062 The Master: Because 932 calls for matters not otherwise classified, donations to churches and other things of that character.

Mr. O'Brien: They cannot be put in here in a rate case.

The Master: He has excluded it from his computation, and I think he was wrong about that.

Mr. O'Brien: Well, it can't go in, the cost of superannuated employees, and mutual aid, and all these other expenses, can not figure in a rate case.

The Master: I am not sure about that. If

you are running a business you have to run it right, and you have to take care of superannuated employees, and make donations, etc.

Mr. O'Brien: Well, the courts have held against such things.

The Master: Well, they have ruled wrong. The trouble is that in too many cases the courts do not understand business, have not had business experience.

Mr. O'Brien: You are talking seditiously now.

The Master: No, I say that any court that has had to do with business problems knows better. 19064

Mr. O'Brien: A great many things might be considered proper in some other kind of litigation, they might have been passed in the Internal Revenue Department—

The Master: That is one trouble with our Bench, we have too few men who have had actual experience with business affairs.

Mr. Chambers: Well, we have gotten along pretty well from Washington down.

The Master: No, we haven't gotten along pretty well. It has been a scandal in this community for years, the kind of judges we have had. I am saying that so the stenographer should take 19065 it down.

Mr. O'Brien: You don't want the stenographer to take that down.

The Master: The stenographer is taking it down. It is something that I have repeated over and over again.

Q. Mr. Teele, in this particular expense "United War Work Campaign," you classified that in a way different from the way in which it was classified by the company?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. You found in that particular instance that the company had not classified that expense at least in conformity with the uniform system of accounts?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Now, "Donations." You found that the company did not classify that according to the uniform system of accounts?

The Master: Objection sustained.

19067 Mr. Chambers: Exception.

Q. Take "Defensive Emergency"—

The Master: We have had the defensive emergency, Mr. Chambers. It is perfectly simple, the fact that for the year 1918 they either correctly or incorrectly spent $100,000 for a temporary war situation. That does not mean that that must be included generally in arriving at the cost of making gas. I will have to exclude that of course.

Q. Now, take this item for "Meeting Fees" $13,941.12—

The Master: What is that, Mr. Teele? I don't quite understand what that is?

19068 The Witness: Perhaps I can give you the detail of it. (Witness consults memoranda.) It is the fees paid to directors at their meetings, etc.

Q. Where did you get that information from?

The Master: Objection sustained.

Mr. Chambers: He didn't get it from the vouchers. All right, if your Honor sustains them all.

Q. Did you examine anything outside of the vouchers?

The Master: Objection sustained.

19069

Mr. Chambers: Your Honor, we are very much in the dark about this. It does not show at all what it is.

The Master: The Master is perfectly clear about this. The witness has told us over and over again that he either looked at vouchers or looked at pay rolls, or looked at journal entries, or looked at one thing or another. If there are no vouchers for this he got it from the journal entry or from the pay roll.

Mr. Chambers: How does he know it was for fees paid to directors?

19070

The Master: Because it is so charged.

Mr. Chambers: Oh, no, show me. I would be tickled to pieces if you would show me.

The Master: It is in the book somewhere or he would not show it.

Mr. O'Brien: The trouble, your Honor, is that you are in a lot of errors—

The Master: You are afraid I am in a lot of errors. The important thing is whether my result will be an error.

Mr. O'Brien: You cannot take a blanket statement by a witness that he examined vouchers, or the journals, or other papers, and checked this thing up and found them correct.

19071

The Master: Well, I am taking it.

Mr. Ransom: It is called "Meeting Fees" right on the face of 1030 and 1031.

The Master: Next question. If there is any error in the record I am assuming responsibility for it, and so is counsel for the complainant.

Mr. Chambers: Yes, he is. I find no vouchers at all for any of that expense, "Meeting Fees."

Q. Engineers Society?

Mr. Ransom: Those are covered by petty cash vouchers which they have had.

Mr. O'Brien: We object to Judge Ransom acting as a witness. We would like to get him on the stand. I would like to get him on the stand and ask him a few questions.

The Master: Next question.

Mr. O'Brien: Talk about putting cards on the table, your Honor—

The Master: Next question. Mr. Chambers, I am going to repeat again, rules ordinarily applicable to the trial of a law suit where the defendants have not the opportunity to go into the plaintiff's business office and look at every book, record and voucher, are entirely different from this case where the opportunity is offered of going into the plaintiff's premises and digging out every item you want, an entirely different proposition, and entirely different rules must apply, and that is why I am going to sustain all of these objections.

19073

Mr. Chambers: I want the witness to tell us what they are for.

The Master: No. This case has got to be shortened and every possible useless thing has got to be eliminated.

19074

Mr. Chambers: I think I am entitled to show by their witnesses what information he had in order to reach the conclusion that that should be classified a certain way, and that they are part of the cost of distribution and operation, and on that, evidence we can point out and say we have excluded it.

The Master: You can bring down here every paper or voucher which you say will support an argument by you that something should be excluded.

Mr. Chambers: But I am entitled to have them say what information they had, and then from that we can point to the evidence and say that should be excluded.

The Master: Objection sustained.

Q. Now, Engineers Society, did you examine the vouchers for that expense?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. And did you learn what it was for?

The Master: I will let him say whether he learned what it was for. 19076

A. The vouchers examined informed me as to what the nature of it was.

Q. Well, what was it for?

Mr. Ransom: I object to the question.

The Master: I will let him state if he recalls now what this was for.

A. I cannot say at this time in detail what that is for.

Q. Part of it is for—

A. I can find the detail of it, if the Master wants it.

Q. I see part of it is for operating the restaurant. Did you examine those? 19077

A. It does not say so.

Q. Here, doesn't that say?

A. That part of it is for operating the restaurant?

Q. Doesn't that say, "Operating Restaurant"?

A. It does not say the charge, part of it is for operating restaurant.

Q. It says "Operating Restaurant," $132.17, and that is part of that expense?

A. Look at general entry 1147 for that item.

Q. Well, look at it.

The Master: No.

Mr. Chambers: Your Honor doesn't want us to look at it?

The Master: No, it is not important enough.

Q. Did you go back to the vouchers for that operating restaurant?

Mr. Ransom: Objection.

The Master: Objection sustained.

Q. To ascertain just what the charge was for?

Mr. Ransom: Objection.

The Master: Objection sustained.

19079 Q. What information did you have before you that prompted you to classify this—

The Master: What?

Q. (Continuing.) Expense Engineers Society, as G-837.

Mr. Ransom: Objected to as immaterial and incompetent.

The Master: I will allow it.

A. It is an expenditure under Miscellaneous General Expense, and G-837, Subdivision E provides for other miscellaneous expense connected with gas operations not elsewhere provided for. I find no other point in the uniform system of accounts where such an ex-

19080 pense is provided for.

Q. And that is why you put it as a gas operating expense?

A. That is why it is included in that account.

Q. And that is why you included it as a gas operating expense?

The Master: Objection sustained.

Q. Now, Illuminating Engineering Society, did you ascertain what that expense was for in order to classify it?

The Master: Objection sustained. He has testified that he ascertained what every expense was

for. He looked at the vouchers, journal entries, petty cash vouchers or something else as to every item.

Mr. Chambers: There is no voucher for that, there isn't anything.

The Master: Well, then, he looked at something else.

Q. What did you look at?

The Master: Objection sustained.

Mr. Chambers: Exception.

The Master: Not useful cross-examination.

Q. What information did you have to ascertain 19082
what that expenditure was for?

Mr. Ransom: Objection on the same grounds.

The Master: Objection sustained. In my judgment this is not useful cross-examination.

Mr. Chambers: Well, what is that? May I ask the Court what it is for?

The Master: Objection sustained.

Mr. Chambers: There is no voucher or journal entry.

Mr. Ransom: Why do you say there is no voucher?

The Master: Don't get into any argument. The book speaks for itself.

19083

Mr. Chambers: There isn't any here noted. Take a look. Do you challenge that?

The Master: Well, we will find it in some other book.

Mr. Ransom: You will find plenty of vouchers.

Mr. Chambers: Well, show me where it is.

The Master: Don't waste time, Mr. Chambers. You will find some record somewhere for every entry in that book. What is the use talking about it. If your engineers can't find it, it is there for them

Mr. Ransom: The defendants have had these bills months ago.

Mr. O'Brien: The defendants haven't got the burden of proof in this case.

The Master: I have heard that remark before.

Mr. O'Brien: Well, it bears repetition, your Honor. It is the rule today as it was on July 15th, when this case opened.

The Master: A repetition of that kind begins to get monotonous.

19085 Q. Well, I see that there are some items here which have a "G. O." What information did you have on which you based your classification of them as G-837?

The Master: Same ruling.

Q. Did you make any inquiries outside of the books and records of the company from anybody as to what that expense was for?

Mr. Ransom: Objection on the same ground.

The Master: Same ruling.

Q. Now, Gas Accountants Society, did you ascertain what that was for?

Mr. Ransom: Objection.

The Master: Same ruling.

19086 Q. What is that, if he may answer?

The Master: He need not answer.

Mr. Chambers: Exception.

Q. Did you make inquiry from anybody as to what that expenditure was for?

The Master: Same ruling.

Mr. Chambers: I guess that is enough to show the attitude of the situation. I do not want to encumber the record up.

The Master: That is what I am trying to do, to avoid encumbering the record.

Q. What information did you have upon which you

classified that under the uniform system of accounts as G-837?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Now, the general head "Other Societies," what was that for, did you ascertain?

The Master: Same ruling.

Q. And did you examine the vouchers for that, Mr. Teele?

The Master: Same ruling.

Q. And what information did you have before you that prompted you to classify that as G-837 under 19088
the uniform system of accounts?

Mr. Ransom: Objection.

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Did you make inquiry from anybody connected with the company outside of the books and vouchers to learn what that expenditure was made for?

Mr. Ransom: Objection.

The Master: Same ruling.

Mr. Chambers: Exception.

Q. Supervision of Electrical Apparatus. Did you examine the vouchers for that?

Mr. Ransom: Objection. 19089

The Master: Same ruling.

Mr. Chambers: Exception.

Q. And did you learn what the expenditure was for, and if so, what was it for?

Mr. Ransom: Objection.

The Master: Same ruling.

Q. Did any of the expenditures depend upon underlying data other than the vouchers?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. What information in full did you have before

you that caused you to classify this particular expense "Supervision of Electrical Apparatus" under G-837?

The Master: Same ruling.

Q. Does the supervision of electrical apparatus relate to the production and distribution of gas?

The Master: Same ruling.

Mr. Chambers: Exception.

The Master: I do not want the witness's judgment on that. I will reach a conclusion about that.

Q. Now, this item of "News Service." Did you as-

19091 certain what that was for?

The Master: Same ruling.

Q. And did you examine the vouchers?

The Master: Same ruling.

Q. And did you inquire from anybody outside of the vouchers what it was for?

The Master: Same ruling.

Q. And what information did you have before you that caused you to classify that under the uniform system of accounts as G-837?

The Master: Same ruling.

Q. And did you find out what the General Shorthand Reporting Company—what service they rendered

19092 which goes to make up part of that expenditure?

The Master: Same ruling.

Q. Now miscellaneous. That is a large item, $27,280. Did you examine the vouchers and records for that to ascertain what it was for?

The Master: Same ruling.

Q. And did the vouchers disclose to you what the expenditure was made for?

The Master: Same ruling.

Q. What information did you have before you that caused you to classify that as G-837?

The Master: Same ruling.

Q. Now the item of Rewards, did you ascertain what that was for?

The Master: Same ruling.

Q. And did you make any inquiries outside of the vouchers themselves to ascertain what it was for?

The Master: Same ruling.

Q. And what information did you have before you that caused you to reach the conclusion that that should be classified under G-837?

The Master: Same ruling.

Q. Now, this item Notary Fees.

The Master: I shall assume the same questions 19094
are asked as to that, and the same rulings made.

Mr. Chambers: Exception. Now, will your Honor assume that the same questions were severally asked about "General Office Supplies and Expenses"?

The Master: Same ruling.

Mr. Chambers: And as to salaries general offices?

The Master: Yes. Same ruling.

Q. Now, take the item on page 754 of the ledger, "Contribution to Employees' Mutual Aid Society, $40,327.71"?

The Master: What do you want him to do 19095
with it?

Q. I want to find out if you analyzed that account.

The Master: Objection sustained.

Q. And what was the pay roll item under that for?

The Master: Objection sustained.

Mr. Chambers: And will you consider that the same questions are asked as to all of those items in Exhibit 364.

The Master: No. You aren't going to get me on anything like that. Go on and ask your question. As to this item objection sustained.

19096 Arthur W. Teele, Cross.

Mr. Chambers: I wanted to save time.

The Master: You are not going to save time that way. Ask the questions. There are some questions that may be very useful, as to some of the items.

Q. Now, on page 33 of Exhibit 205, you have set up here "Interest on Consumers' Deposits," as an operating expense.

The Master: Yes, it so shows. What about it.

Q. $40,905. Those deposits were deposits made
19097 by the consumers for having a meter in the premises. Did you learn that?

A. I assumed that was what they were for.

Q. A guarantee of payment of bills?

A. A deposit made by consumers in order to have gas furnished to them.

The Master: The first five items on that schedule represent the amount of interest actually paid to consumers?

The Witness: Yes.

The Master: What does the next item mean, Balance of Consumers' Deposits, December 31, 1918, 12 per cent thereof. Why 12 per cent?

19098 The Witness: I testified in regard to that, your Honor, and I will repeat: The experience of the company in the payment of interest on consumers' deposits has been that over a period of years on all deposits withdrawn they paid on an average 12 per cent to the consumers so withdrawing the deposit, and in order that they may get in their accounts the increased liability for the year, or the increase in deposits, they calculate the interest at 12 per cent upon the increase or decrease between the balance at the beginning of the year and the balance at the end of the year.

That is, if the deposits increase throughout the year, the added amount is put in, and if the deposits decrease during the year the amount is deducted.

By Mr. Chambers:

Q. Did you determine whether that was an operating expense in accordance with the Uniform System of Accounts of the Public Service Commission?

The Master: Yes, he did; he set it up under item 921. What is the use of asking him whether he did or not?

Q. 12 per cent is an estimate, is it? 19100

The Master: He so testified—based upon experience.

Q. Where did you get this experience from that called for the figure 12 per cent?

Mr. Ransom: I object to the question. This is not any estimate he has made or taken.

The Master: Objection sustained.

Mr. Ransom: It is fully covered. It is shown in the books.

Q. You just took the books on that?

A. I went beyond that, to the extent of compiling the records shown, to see what the experience was.

Q. The uncollectible bills for 1918, page 31 of 19101
Exhibit 205, page 1077 of the operating ledger for that year, is $95,330.22. Is that actual or estimated?

Mr. Ransom: I object. That has been fully covered by this witness when he was previously interrogated.

The Master: I am going to let him state how he arrived at the figure $95,330.22.

Mr. Ransom: He has already stated it once.

The Master: I will let him state it again.

A. The amount shown on operating ledger folio 1077 represents the amounts reported by the branch

office accounts, where consumers' accounts are carried, as being the amount that is uncollected.

Q. Was it actual, or did you ascertain whether it was an estimate or an actual amount?

A. It is actual.

By the Master:

Q. Every month a report comes in of the amount charged to this account and the account is charged against it?

A. They report the accounts that are more than two months old.

19103 Q. That is charged to this account?

A. And they report that to the general office, and that is charged to this account; and if these accounts are subsequently collected the amount of cash so collected is reported and credited.

Q. The amount $95,330.22 is the balance in that account at the end of the year?

A. It is.

Q. Making allowance for the debits and credits?

A. It is.

By Mr. Chambers:

Q. Is the two months measured from the time the bill is sent out?

19104 The Master: Objection sustained. It has been fully covered.

Mr. Chambers: Exception.

Q. I call your attention to the account Renewals and Replacements on page 32 of Exhibit 205, $601,450.69. You found in the first place that that account was not kept in accordance with the Uniform System of Accounts, did you not—the Uniform System of accounts of the Public Service Comission? I will ask you is it so kept?

Mr. Ransom: It is a pretty difficult legal question.

Mr. Chambers: He has pretended to classify all of these.

Mr. Ransom: This one question is a pretty difficult legal question.

A. In my opinion it is kept in accordance with the Uniform System of Accounts, No. 374.

Q. What is the title of the account in the Uniform System of accounts?

A. Accrued Amortization of Capital.

Q. The title here is "Plant Withdrawn from Service Suspense."

The Master: I do not think that gets us anywhere. As I read 374, that account might very well be kept in that form and yet ultimately included in 374, because it says: "Credit to this account such amounts as are charged from time to time to operating expenses or other accounts to cover depreciation of plant and equipment and amortization of capital." Apparently this rule means that you can keep your accounts in any way you like, but the moneys expended in that form must come ultimately under 374. That is the way I read it. 19106

The Witness: It further provides that when any capital is retired from service the original money cost thereof, estimated if not known, and so forth, shall be charged. 19107

The Master: I do not think that is a useful question. I will sustain the objection.

Mr. Chambers: I am not asking him any questions about plant withdrawn from service—about the plant itself. I will leave that for Mr. O'Brien.

The Master: You probably will not have much chance for it.

Mr. O'Brien: Is that in the record?

19108 Arthur W. Teele, Cross.

The Master: Yes.

Mr. O'Brien: That I won't have much chance?

The Master: I cannot conceive much useful cross-examination on the matters that Mr. Chambers is passing by. I can see if some of you gentlemen will get out some useful cross-examination or tax questions, that I will be interested.

Mr. Chambers: I have not arrived at it yet.

The Master: I think the quicker you get to the tax question the quicker we will be getting to something that is useful.

19109 Mr. O'Brien: Your Honor, there is not an item in this Teele Exhibit here that is not replete with causes for cross-examination.

The Master: You know my views about this cross-examination.

Mr. O'Brien: Judge Ransom is trying to put the witness today before us in the aspect of a constructive accountant who not only passes upon *2* and *2* making 4, but interjects a judgement as to utility wisdom. That puts a whole new aspect on the question of cross-examination.

Q. Take for illustration the very first item here on page 364 of this operating ledger.

19110 The Master: Read it.

Q. (Continued) January Fixed Capital 12/31/08 Meters, 42 Journal Entry, $3,061.45. Did you ascertain how many meters were included in that?

A. If you will refer to the entry or allow me to refer to the entry—

Q. (Interposing) Is that a journal entry, 42?

The Master: No, the question is, did you check up the meters that that covered?

The Witness: The papers supporting or underlying the journal entries show the number of meters retired and the valuation.

Q. Did you accept that as accurate?

A. I accepted it as accurate.

Q. The number retired?

A. The number retired as reported by the Superintendent.

Q. Did you accept the amount that was fixed for each meter retired as accurate? That is, you did not go back into that at all, did you?

A. I did not.

Q. You took the number of meters and the amount?

A. As reported by the Superintendent.

Q. Is that true of all meters set forth in your 19112
accounts withdrawn?

A. That is true of all meters retired and charged to that account.

Q. Is it true of all other property or plant withdrawn from service?

A. Is what true with regard to all other property?

The Master: That you relied on the reports.

Q. That you relied on the reports as being—

A. No, it is not. Other property, where the original cost value to the company is ascertained—

Q. (Interposing) I will ask that. You have cocks and connections. Did you take the company's report as to what the number and price were as accurate? 19113

A. Yes.

Q. All the way through on those?

A. On cocks and connections, yes.

Q. Services?

A. On services.

Q. Street mains?

A. And on street mains.

Q. Well, what did you not take?

A. On plant, on manufacturing plant.

Q. I will not ask you that then, because I am going to leave that field to Mr. O'Brien, on plant. I will take these other things. How about appliances?

A. On appliances, we made a very—

Q. I withdraw that. Excuse me.

A. You do not want the explanation?

Q. I will leave that to Mr. O'Brien and withdraw the question.

The Master: Who is going to do the inquiring about taxes? That is what I want to know.

Mr. Chambers: I think that the Attorney General's humble representative will make a try at it. If you do not let me go any further with that than you did with the others, then I cannot

19115 get far.

The Master: I am going to let you bring out from Mr. Teele how these various figures were arrived at.

The Witness: He has cross-examined on that before.

The Master: Yes, I remember he did, but I want to get a little clearer picture of it.

Mr. O'Brien: Your Honor will not permit Mr. Chambers to go into this detail of plant withdrawn from service, as to the prices put on meters when withdrawn from service, where he got those figures, whether he consulted Mr. Carter,

19116 whether Mr. Carter gave him additional data, or whether Mr. Davidson made up some figures for him.

The Master: I will rule on the question as they are asked.

Mr. O'Brien: Of course you must remember that Mr. Teele has been with us since the 15th of July, and naturally he is taking what somebody else told him.

Mr. Chambers: He said he relied on what was given to him.

Mr. O'Brien: That is the man we want to

cross-examine, the man who actually came into contact with this stuff—not the man who has been a pleasure to this company since we met him on July 15th.

Q. As to tools and implements, did you rely on the number of tools and implements withdrawn from the service as given you by the company?

The Master: By the reports, you mean?

Mr. Chambers: Yes.

A. As to the property withdrawn, yes.

The Master: Judge Ransom, will you locate in the preliminary cross-examination of Mr. Teele 19118
the cross-examination on the tax items? I would like to have it. If you have not the record here, get it here to-morrow, will you?

Q. The price of those tools and implements, Mr. Teele.

A. If you will allow me to refresh my memory on this. It is some time since I have been over it, (examining papers). For the tools and implements, we relied upon the reports made by the superintendents of the various stations and shops, as to the tools and implements withdrawn.

The Master: And the price?

The Witness: And the value. 19119

Q. General Stable Equipment?

A. I may say on tools and implements that the withdrawal is calculated on a basis of ten per cent, of the book value at the end of the year.

The Master: I do not quite understand that.

The Witness: The company estimates the value of the tools and implements withdrawn during the year at its various shops as being ten per cent, of the book value of tools and implements.

The Master: In other words, this is an arbitrary figure you arrive at?

The Witness: It is an arbitrary figure used.

The Master: Without physical inventory or the actual value or amount of the tools and implements?

The Witness: Yes, sir.

The Master: It is really a depreciation charge rather than a charge for actual retirement?

Mr. Ransom: It is a matter of law.

The Witness: I should not say so.

19121 The Master: You mean that some of these tools are actually gone?

The Witness: Yes, sir. We estimate that the actual loss in the retirement of tools which they do not set down and enumerate specifically, amount to ten per cent, on the average value at which they carry them.

Q. Lost and worn out, both, Mr. Teele?

A. Lost.

Q. Not wearing out?

Mr. Ransom: I object to the question. This relates to property withdrawn from service.

A. If a tool is in use it is not worn out.

19122 Q. If a tool is scrapped what is done with it?

The Master: Objection sustained. Without giving definitely the number of screws, nuts, bolts, etc., they figure roughly that ten per cent is discarded and thrown out each year. You can't get any better than that.

Q. Now, "General Stable Equipment"?

A. The amount retired in the year 1918 was $59.86.

Q. No, I am asking you what you based it on, what basis you had for the item of stable equipment withdrawn, what information you had.

The Master: Well, I think the Master will rule, in view of the size of the item, that we will not waste a second looking it up. Next question. Time is entirely too valuable for that.

Mr. Chambers: Exception.

Q. Not autos and accessories?

A. They are retired at the book value where known. The amount retired during the year 1918 was $987.98.

The Master: What did you rely upon for that?

The Witness: I relied upon the information furnished by the entry and the record of the book value of the car retired. 19124

The Master: In other words, you took the report that a car had been retired and relied on that, but you did not rely entirely upon the value assigned to the retired article without checking it up?

The Witness: No, we did check it up to find what the book value was.

The Master: But you relied upon the report that the article had been retired?

The Witness: I did.

Q. Did you take the book value of the auto retired?

A. Yes.

Q. How did you find out what the book value was? 19125

A. By referring to the record of the book value.

Q. You mean where it was purchased? The only book value you would find would be what was paid for it, wouldn't it?

A. Yes.

Q. Then what did you do with that? You found out what the auto cost. Then, where did you get your information to fix the value as to what it should be retired at?

A. It is retired always at cost.

Q. Charged in here at cost?

A. Charged in at cost. All plant is retired at cost where cost is ascertainable, and where it is not ascertainable the estimated amount of cost is credited.

Q. Take meters, what records did you use to show what you call the cost that you took the meters at? Give me all the records that you used as to the cost of meters?

A. My recollection is that meters are all retired at a unit value at the time of the consolidation, at the time of the formation of the company, placed upon meters at the time of the Rowland appraisal.

19127 Q. How about the services, the same?

A. Services, I believe, my recollection is, are retired on a unit valuation.

The Master: Have you any memoranda here from which you can tell us definitely?

The Witness: I have not the detail memorandum. I have the detail analysis of the account, but I have not the detail memoranda showing the basis of it. Meters, services and mains, my recollection is, are all retired upon a given unit price, that unit price being the unit price established at the time of the formation of the Consolidated Gas Company.

19128 Q. Under this heading, "Plant withdrawn from Service," is $414,119.75 for holders withdrawn. Did you ascertain how many holders—it says 65th Street, 1-6—did you learn how many holders were withdrawn?

A. The original entries disclosed the fact that it is the original cost of 6 small holders and appurtenances. The original cost of the holders, less the proceeds realized from the sale of the scrap.

Q. You mean they withdrew 6 holders? I am asking you how many holders they withdrew?

A. That is the Engineering Department certification on the papers.

Q. They withdrew 6 holders at 65th Street?

A. Yes. The $414,000, the item to which you have referred, is the balance of the cost of dismantling, plus the original cost of the holders as certified to by the Engineering Department, less the salvage.

Q. What checking did you do in regard to these holders? What did you find out about the cost of them?

A. This item we traced back, the original cost of this property, to the original cost to the company— 19130

Q. Of the holders?

A. Of the holders retired, at $426,708.75.

Q. Where did you get that cost of the holders to the company?

A. By referring to the original records of the cost to the company, partly to the Rowland appraisal, partly to the expenditures made by the company after 1884.

Q. Where did you get that, after 1884?

By the Master:

Q. Mr. Teele, is the matter about which you are now being interrogated the same matter which appears on page 15 of Exhibit 367, Manufacturing plant and Equipment Withdrawn from Service? 19131

A. Yes.

Q. Do I recall your testimony to the effect that this page 15 shows upon what you relied for your calculations and figures?

A. Yes, it gives a reference to the original cost of the items that are withdrawn, all plant withdrawn from service is withdrawn upon a certification by the Engineering Department that the article has been withdrawn.

Q. Now, you had these three colums, court valuations, items identified, items not identified, and book

value, and you have referred here to where it was in the company's estimate of the company's engineers, and whether you referred to a record page, General Account Book, folio—that is the matter that you had before you when you arrived at this figure?

A. Yes.

Q. That is all spread out on that page?

A. Yes, and other pages which cover this account.

Q. In answering questions of Mr. Chambers you are looking at your original memorandum upon which this Exhibit 367 was based?

19133 A. I am looking at my own working sheets upon which the items charged in this "Plant withdrawn from service" are credited to property account as set down, the original source from which I obtained the information.

Q. Isn't that all shown on pages 15 and 16 of this exhibit?

A. Yes.

Q. The same thing?

A. The same thing.

Q. So that the engineers for the defendants could get that themselves at pages 15 and 16, they could get this information for themselves?

19134 A. They had been looking at it and checking it up.

The Master: Objection sustained.

Mr. O'Brien: Does that mean, your Honor, that you do not want any cross-examination on that subject?

The Master: It means that the question asked by Mr. Chambers asking him where he got his information, will not be allowed.

Mr. O'Brien: I note an exception to your Honor's ruling.

Q. Now, Mr. Teele, did the Rowland report, or did the information you had, set up the cost of those

six holders separate and distinct from the others, so you could pick them out?

A. I was able to identify these six holders in the Rowland appraisal.

The Master: Is that Rowland appraisal in court?

The Witness: I will amend my answer to this extent, that I was able to identify items in the Rowland appraisal which, taken together, were items of cost to the company after 1884, aggregating the total valuation of $426,000, at which this property was retired. 19136

Q. You mean Rowland set up these holders, the cost of them, separate, each holder?

A. Items in the Rowland appraisal which were a part of this property were set out separately so that we were able to identify the items in the Rowland appraisal as being a part of this total valuation at which this property was retired.

Q. Well, what were those holders fixed at by Rowland, then, these six?

A. I can give you the items as they are set out in the schedules which have been furnished to you and which your accountants have been checking up. I can repeat that here. I haven't the segregation of the 19137 property here as the items appear in the Rowland appraisal, but I have the page and item reference and the amount shown in the Rowland appraisal.

The Master: Well, that is on this Exhibit 367?

The Witness: Yes.

Mr. Ransom: We furnished them to them so they could check it.

Q. You added some item to the Rowland appraisal?

A. I did.

Q. Where did you get this from, and how do you know they were correct?

A. From the description upon the papers furnished by the Engineering Department to the Accounting Department of the property retired, I was able to identify items in the Rowland appraisal constituting a part of it, and further than that items appearing in the books of account of the company to which reference is made as being a part of the total.

Q. How do you know that there were not other expenditures that were not certified in that connection?

A. I have already testified that I relied upon the information furnished by the Engineering Department
19139 as to the property retired.

Q. Did the engineers give the amount in dollars in their report of the property to be retired, like you have?

A. Yes.

Q. And you accepted that amount in dollars

A. I did not. I referred back to the original entry to find out whether the dollar value was correct, whether I could satisfactorily identify the property from the original record.

Q. What effort did you make to ascertain if the engineers had reported the entire expenditure for the piece of property withdrawn.

19140 Mr. Ransom: I object to the question as too vague. What does he mean by entire expenditures.

Mr. Chambers: He knows what I mean.

Mr. Ransom: I don't know.

The Master: I will let the witness answer.

Mr. Ransom: Do you mean the entire expense of installing the property?

Mr. Chambers: He can answer if he does not know what I mean.

The Witness: The inquiry made was to see whether the account from the value of the prop-

erty was taken covered anything more than the item which we were taking from the account, and whether there was anything more in the Rowland appraisal as to the particular property covered that might be property that was removed at this particular place. In other words, we attempted to identify in the original records the cost to the company, or attempted to satisfy ourselves as to whether there was any other property or expenditure at that point which was not covered by the amount being taken out of the accounts.

Q. And what did you use to try to satisfy yourself 19142
as to that?

A. I have just stated to you.

Q. There may have been other expenditures that you did not pick up?

Mr. Ransom: Do you claim the charge should have been larger?

Mr. Chambers: Oh, there may be a good deal left out of here.

Mr. Ransom: Well, that would only swell operating expenses, if it were.

Q. It is more or less indefinite and uncertain, isn't it?

A. More or less indefinite? 19143

Q. It has some uncertainty about it?

A. I think it has no uncertainty about it. I was fully satisfied from my own examination that the property described by the engineers as having been retired, that the value of it, or the cost of it to the company was being taken out of the accounts in the amounts that were being credited.

Q. Well, the expenditure in relation to that might be found in many places?

A. No, the largest part of the expenditure was found in the Rowland appraisal. The Rowland

19144 Arthur W. Teele, Cross.

appraisal represents the cost to the Consolidated Gas Company of the property taken over at the date of its consolidation.

Q. Well, how do you know the Rowland report does that?

Mr. Ransom: I object to the question.

Q. Do you know anything about the Rowland report than appears on the face of it?

Mr. Ransom: I object to the question, here is the Rowland appraisal, which was the basis of a legislative approval and authorization of capital
19145 stock on the formation of the Consolidated Gas Company, an inevitable starting point, as your Honor pointed out.

Mr. Chambers: That is the best I have ever heard.

The Master: What is the question?

Q. Do you know anything more about it than shows on its face, that is what I mean?

A. I look back at the organization entries of the Consolidated Gas Company and found out what its capital stock was issued for, and what properties were taken over, and from whom they were taken over, and my inquiry into those entries referred me
19146 back to the valuation at which the properties were taken over.

Q. Where did you get those books?

A. The books were in the office of the Consolidated Gas Company and have been in the hands of your accountants for weeks.

Q. Where are they?

Mr. O'Brien: I move to strike out the last part of the witness's statement.

A. I have put them there myself in the hands of the accountants working in the office. I have given them to Mr. Frank, original journal No. 1, in which the entries are set forth.

Q. He is a public service accountant?

A. He is one of the accountants working for the defendants. I do not know whether he represents the Public Service Commission or the others.

Q. Where did you get that from?

The Master: Objection sustained. Is not Mr. Frank up there examining these accounts?

Mr. Chambers: He is not working for the Attorney General.

The Master: Is he not working for the defendants?

Mr. Chambers: He is working for the Public 19148
Service Commission.

The Master: Then it is right. He is working for the defendants.

Mr. Ransom: He is working for the Attorney General.

Mr. Chambers: We expect to use information that he produces.

Mr. Ransom: And have used it.

Mr. Chambers: He is not working for the defendant Newton at all.

The Master: The complainant gas company has come into court asserting that its rights are being impaired. In order to establish that it has 19149
given each of the defendants the opportunity to go up and look at its records, its books, its documents, its vouchers. The Public Service Commission for that purpose have a right to send a man up to do it, and that man is acting not in the capacity ordinarily referred to in the Public Service Commission's law of inspecting the accounts for the Public Service Commission—

Mr. Chambers: Counsel said he was.

The Master: I do not care what counsel said about it.

Mr. Chambers: He said he could not disclose what he found out.

The Master: I think it is perfectly ridiculous.

Mr. Chambers: You remember that claim that Mr. Frank could not tell us what he did find?

The Master: Yes, and I said he could. As soon as Mr. Frank goes up there as an investigator in this case, as distinguished from his ordinary duties in the Public Service Commission, he is in the same category as Mr. Hine or Mr. Maltbie or anybody else.

19151 Mr. Chambers: But Judge Ransom said he could not divulge what he found out.

The Court: I do not agree with Judge Ransom.

Mr. Chambers: He said that Mr. Frank could not give us anything he found out.

The Master: Next question. We waste a lot of time with these side issues.

Q. Did you do anything at all to ascertain if there were any withdrawals not reported?

A. You mean at this particular point?

Q. At any point—any withdrawal generally?

A. I did not go behind the certification of the engineering department as to property withdrawn.

19152 Q. Where did you get your information as to this boiler stack and the cost of it, and the amount for which it should be withdrawn?

The Master: Is that on this Exhibit 367?

Mr. Ransom: All those items are shown on that exhibit.

The Master: I want to know if it is on this Exhibit 367, and if so I am going to sustain an objection on the ground that it is not useful cross-examination.

The Witness: It is on page 18.

The Master: Objection sustained, on the

ground that the matter is set forth on Exhibit 367 and this question is not useful cross-examination.

Mr. O'Brien: Exception. I want to go into that matter myself and I am reserving my exception now.

Q. How were you able to identify this particular boiler stack?

Mr. Ransom: Objected to.

The Master: I will let him say that.

A. By the reference to the information attached to the journal entry, or filed as a part of the journal 19154
entry records. It is not attached to the journal entry.

Q. Did you check up and see if there was any expenditure?

The Master: Let me ask you, Mr. Teele, on this Exhibit 367 in the first column it says "Court Valuation 507" referring to page 1679.

Mr. Ransom: That was the Mayer appraisal.

The Master: That was the Mayer appraisal?

The Witness: Yes.

By the Master:

Q. The book value items identified, estimated by company's engineers, $570. What does that refer to?

A. The item was identified as being contained in 19155
the Mayer appraisal. A book valuation or cost to the company could not be identified and the engineers estimated it at that valuation.

Q. But Mr Mayer had appraised it at $507?

A. But Mr. Mayer's valuation was not upon the books of the company.

Q. At what figure was this boiler stack—

A. The Rowland appraisal is upon the books of the company by reference to it, but the Mayer appraisal was not.

Q. At what figure was the boiler stack retired?

A. Retired from the plant account on the books at $570, which was the estimated value or estimated cost to the company of the engineers.

Q. And where in this exhibit you say "estimate by company's engineers" you rely on that estimate?

A. Absolutely.

Q. There was not any other way by which you could tell at all?

A. There was no other way I could tell.

Q. Whether it was high or low?

A. I could not.

19157 By Mr. Chambers:

Q. Is that true of these other items—plant at 99th Street at 21st Street?

The Master: Objection sustained upon the ground that Exhibit 367 shows which items it refers to and which it does not. I see, for instance, on page 18 all of the three items on that page are estimates by company's engineers, and on other pages that is not so—as to other items. The objection will be sustained. Are you trying to locate that item?

Mr. Chambers: Yes.

The Master: Mr. Teele can probably do it.

19158 What is the item?

Mr. Chambers: $322.70.

The Witness: What schedule are you referring to?

The Master: 367.

The Witness: Plant at 99th Street is on folio 23. If you will tell me what item you are trying to find I could point it out to you.

The Master: Plant 99th Street, November 1918, $322.70.

Mr. Chambers: While he is looking for that, we would like to have the vouchers produced to-

morrow for Miscellaneous General and Auto and Gas Logic.

Mr. Ransom: That involves a lot of records. They have had these vouchers for months. The complainant does not feel that calling merely for classes of vouchers or all of the great number of vouchers on a particular subject serves any useful purpose. If the Attorney General wishes his representative to do what Mr. Hayward and Mr. Clark have done, namely, when he wants specific vouchers, give us specific numbers of the vouchers they regard as likely to be helpful, we will be 19160
glad to comply with reasonable requests of that sort; but merely to say we want all the vouchers under Miscellaneous General Expense, which run into great numbers and on these other classes of items, without any indication that Mr. Chambers knows anything about what is in them, becomes purely a matter of a fishing expedition. If they want specific vouchers I would be glad to have them indicate them, as Mr. Clark and Col. Hayward have done.

Mr. Chambers: We have asked for certain vouchers—just a few of them.

The Master: What do you want them for? 19161

Mr. Chambers: I want to examine the witness about them.

The Master: What do you want to ask him about?

Mr. Chambers: I don't know yet.

The Master: I shall not direct their production unless you can tell me some specific purpose as to matters brought out on direct.

Mr. Chambers: Then I will tell you.

Mr. O'Brien: I ask for the purposes of my cross-examination of Mr. Teele that the com-

plainant produce the operating ledgers A and B for 1918, the operating journal for 1918, the accounts receivable, reports of the branch offices for 1918, the reports of rented appliances sold on the district for 1918, the reports of appliances sold from stock for 1918, monthly reports of appliances condemned and destroyed for 1918, branch office and repair shop inventories May and November, 1918.

The Master: What do you want all that for?

Mr. O'Brien: That they also produce—

19163 The Master: What do you want all that for?

Mr. O'Brien: I want it for the cross-examination of the witness.

The Master: What do you expect to bring out from the witness by them?

Mr. O'Brien: I expect to show that he is unreliable as a witness, that he was in no position to test the accuracy of the record, that he has depended upon matters extraneous to the case and various other matters that will tend to shake his standing in this case as a witness; and I want to further request—this need not be for the first day but they can get it together—that they

19164 bring into court the underlying records that were the subject of the witness's tests of the reliability of the pay rolls and time books at the stations, the receipts of coal and oil at the stations.

The Master: Anything else? Do you want all the original vouchers?

Mr. O'Brien: The original vouchers and the underlying records by which he made his tests of the branch office.

The Master: Don't you think they had better move the gas company down here?

Mr. O'Brien: No, that will not be necessary, your Honor.

The Master: You can put your request upon the record and counsel for complainant will bring down such matters as he thinks it is feasible to bring down. I will not make any direction with reference to it.

Mr. O'Brien: Your Honor will recall when Mr. Teele was on the stand a few days, your Honor at page 2036 directed him to make further tests and you confined it there to certain brief periods, and the witness said he thought he could do that in two or three days. Then he subsequently appeared on the witness stand and said 19166
that he had made those tests. I want those papers that he made as a basis for those tests. I do not think they will be voluminous. They will not need a van to bring them down.

The Master: What do you expect to show by it?

Mr. O'Brien: I want to examine this witness to see the tests he made.

The Master: I will not make any direction on the subject.

Mr. O'Brien: I want to request further that he bring the underlying records that were the bases of the tests that he made before he appeared as a 19167
witness, he having said that he made the tests.

The Master: You can put on the record anything you want.

Mr. O'Brien: I want further for the cross-examination the vouchers or underlying data by which he made tests, as he said, of the purchase of merchandise by the complainant, also the underlying data in the branch offices that he used for the purpose of making tests, so that I may be able to cross-examine him on that. I further request that for the purpose of cross-examination

into the question of transferred gas the witness produce all of the underlying records, computations, calculations, reports, figures, papers and documents that were turned over to him and which he used in connection with his examination into the propositions of transferred gas.

The Master: Anything else?

Mr. O'Brien: That will do for the first two days, or three, of my cross-examination, your Honor.

Mr. Chambers: In regard to the data that I
19169 wanted, I want to show by them, for one thing, that there is nothing on them to indicate what the expenditures were for—no details.

The Master: I would suggest, Judge Ransom, that you get a few of those vouchers down here that will bear out Mr. Chambers' claim.

Mr. Ransom: If there are any.

The Master: There are undoubtedly some at least which will indicate something on them except that you have paid John Jones some money and I would like to have enough down here just to have Mr. Chambers be able to spread it on the record so as to make his point.

19170 Mr. Ransom: Mr. Chambers had here the other day as he indicated—he was able to state what was on those vouchers. He knew from the report of Mr. Frank. He referred to certain of them. It is just as easy for him to make up a list of those which do not contain what he regards as sufficient identification as it is for me. The overwhelming majority of them do contain elaborate identification; it may be that some of them do not contain what he regards as a sufficient identification. He has a list of those; it has been made up for months. If he will furnish a

list of those, which Mr. Frank has reported to him, do not contain sufficient identification, I will agree to bring down those so that he may be either confirmed or refuted.

Mr. O'Brien: That might do the defendants great harm on the theory that exclusion of the one is the inclusion of the other. You might draw the inference that we are not going to attack those that are not brought down.

The Master: The trouble with the situation is that I would be inclined to direct that the vouchers Mr. Chambers want be brought down, 19172
but then I am met with the situation that Mr. O'Brien will say, "Well, I want all the rest of the gas company down here." I am not going to make any direction at all about the production of those things at this time.

Mr. O'Brien: I have been specific as to the things I want.

The Master: I do not believe that I am going to let you use any of them. I am not going to permit you to cross-examine this witness any further as to the accuracy of the statements or what he did.

Mr. O'Brien: All right, your Honor, I have 19173
made my demand.

The Master: Yes, it is on the record for whatever it is worth.

Adjourned to Friday, November 14, 1919, at 9:15 A. M.

Last Complainant's Exhibit No. 374.
Last Defendants' Exhibit AA-4.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 19177

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 14, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 19178
MR. O'BRIEN, of Counsel for defendant Swann.

ARTHUR W. TEELE, resumed the stand.

CROSS-EXAMINATION CONTINUED:

Mr. Chambers: Has counsel produced the few vouchers I asked for yesterday?

Mr. Ransom: A few vouchers?

Mr. Chambers: Auto—there were just a few of those.

The Master: Have you produced any of the vouchers for Judge Ransom? 19179

Mr. Ransom: I have some of them.

Mr. Chambers: Autos and accessories, there is just one that I see.

Mr. Ransom: I asked to have some of them got together. With the number of vouchers called for by Mr. Chambers it was quite out of the question.

The Master: Counsel for the complainant produces several bundles of vouchers. The first one seems to be payments during the month of November, 1918, general office.

Mr. Ransom: Most of the vouchers that were called for by Mr. Chambers were in the possession of Mr. Frank and his men and were not available.

The Master: As near as I can figure out this first bundle seems to contain vouchers between the 15th and 30th of November.

Mr. Ransom: General office petty cash probably.

The Master: All sorts of things are in here, directors' fees statements, all sorts of petty cash
19181 vouchers. Here are a number of vouchers produced, Mr. Chambers.

Mr. Chambers: Well, we will look at them later.

The Master: No, look at them now. We will get through with this. What did you want them for? You called for them.

Mr. Chambers: I can go on while Mr. Maltbie or somebody is looking at them.

The Master: Very well.

Mr. Ransom: All these are vouchers that the representatives of the Commission have had for some time. All that I asked was that they be
19182 sorted out under the heads asked for yesterday, typical vouchers covering each of those items, notary's fees, rewards, miscellaneous, meeting fees, news service, publicity, engineering societies, illuminating engineers, stable expenses, etc.

The Master: The Master wants it noted on the record that in these three or four bundles of vouchers there are apparently 500 or 1,000 vouchers for petty cash, and all sorts of vouchers.

By Mr. Chambers:

Q. Mr. Teele to return to this operating ledger, Exhibit 189, page 364, under the title "Plant with-

drawn from service" I see some credits here of small amounts. Those were for some property sold, were they?

The Master: What is the purpose of that question?

Mr. Chambers: The purpose of that question is to show that these credits were credits for property sold and were not credits for any of the profit, or whatever you might call it, on the other property it was sold for petty stuff.

A. I think that question is unintelligible to me.

Q. What are those credits for? 19184

A. Without looking at the papers to which these entries refer, I read the entries as being the proceeds of sale of property which has been retired from service, the cost of which is charged in on the debit side and this represents the proceeds of sale in the nature of salvage recovered.

Q. It all relates to meters, cocks, connections and small stuff like that?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. What was it for, did you ascertain?

Mr. Ransom: Objected to.

The Master: Objection sustained. 19185

Q. It was for the sale of small items, wasn't it, like meters, cocks and connections?

The Master: You have already said that. Objection sustained.

Mr. Chambers: I am proceeding on the theory that the Master will not allow me to ask anything—

The Master: You are proceeding very slowly. You have taken twenty minutes to ask one question that I have permitted to be answered.

Mr. Chambers: That is not my fault.

The Master: Yes, it is, you have repeated the same question four times.

Mr. Chambers: I want to find what these are for.

The Master: Look at the vouchers and find out.

Mr. Ransom: The schedule of plant withdrawn has been in the hands of the defendants for months and has been thoroughly checked.

Q. Now, I take the first credit of $78.40, sundry debtors meters. Did you ascertain if that was a sale
19187 of a meter to somebody?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Now, I take the next item—

The Master: Don't take any more items. The ruling will be the same.

Mr. Chambers: I will put this on the record.

The Master: I don't want you to take the time. The book is in evidence. All you have to do is to require in the record that that page be printed. Don't waste a lot of time on that. I don't want you to ask another question like that,
19188 Mr. Chambers.

Mr. Chambers: Well, we want to ask the question—

The Master: No, I have given you an exception on that ruling. I don't want any more questions asked of that character.

Mr. Chambers: Well, I will fix the record so we can present it—

The Master: No, the book is in evidence, and if you want that page printed you can do so.

Mr. Chambers: I desire to except to the Master's ruling depriving the defendants of the right even to ask a question about this page 364.

19189

The Master: The statement is not correct. The Master is simply refusing to let you ask a number of questions of the same class, having allowed you to ask one several times and having made his ruling. The Master directs that no more questions of that kind be asked.

Mr. Chambers: I desire to ask some additional questions about this, and I take an exception.

The Master: Yes.

Q. Now, I ask you what effort you made to ascertain or check up the accuracy of the entry, "Sundry Debtors, Sale of Condemned Meters, $151"—what 19190 data you used?

The Master: Now, Mr. Chambers that is precisely the kind of question I told you I didn't want you to ask.

Mr. Chambers: That is not like the other.

The Master: Yes, it is.

Mr. Chambers: I am going to ask one of each variety.

The Master: Objection sustained. I told you yesterday also that I did not want any questions asked asking this witness what he did when he has told us a dozen times what he did.

19191

Mr. Chambers: If the Court please I understand that you are not going to allow us to ask much of anything, or to cross-examine, or to protect our rights, but I have got to get enough on the record to indicate our position and the attitude of the Court, and I am going to do it. I just want to show the atmosphere.

The Master: If you don't obey my instructions I will order you to sit down.

Mr. Chambers: You can do that, I will be glad to have you order me to sit down now, and I will take an exception.

The Master: When the time comes that I think you have defied the Master's ruling long enough, I will order you down.

Mr. Chambers: Any time you want me to sit down, I will sit down.

The Master: I know you will.

Mr. Chambers: But I have got to protect our rights and put certain questions.

The Master: Come along now.

Q. Where is insurance found in your Exhibit 205, on what page? On page 29, isn't it? Is that the same
19193 insurance that is set up on Exhibit 364? It seems to be?

A. The same amount, yes, sir, the same insurance.

Q. It is the same thing isn't it, one is a duplication of the other?

A. It is intended to be the same item.

Q. Now, I see one item insurance appears to be here, insurance of George Cortelyou, *et al.*, Liability Insurance Trustee on Automobile. What did you find out about that? Any names in addition to Cortelyou's shown here?

The Master: Let me ask you, Mr. Chambers, have you anything in mind particularly about that
19194 item?

Mr. Chambers: Well, I think it is—

The Master: Ask the point directly, will you

Mr. Chambers: That is it.

The Master: Don't ask him what he did. What is your point?

Mr. Chambers: I want to find out what he found out about that expenditure in addition to what is shown here, and what it is for.

The Master: I won't allow it.

Mr. Chambers: Exception.

The Master: If you have any point that you want to bring out, if you want to direct the witness's attention to it and you want to get it on the record bring it out, ask your question.

Mr. Chambers: I have a thousand points here that have to be developed by questions.

The Master: Most of them are so dull that they are useless.

Mr. Chambers: I take an exception.

The Master: Get a point that is of some use to us. If you have a point about this item, put it and get it. 19196

Mr. Chambers: I want to find what he found out.

The Master: Oh, I don't care. I want to know what your claim is, and if you have any claim to make with reference to it what you want to bring out on cross, bring it out. Don't let us waste an hour on it. I do not understand this kind of cross-examination.

Mr. Chambers: I know, I see you don't. I take an exception to your Honor's ruling—

The Master (interrupting): It is a new one on me.

Mr. Chambers (continuing): Or whatever you call it. 19197

Q. Now, what information did you obtain about that expenditure, if any, in addition to what is shown on page 1043 of this exhibit?

The Master: Objection sustained upon the ground that this witness has testified many times that his information came from various sources, and that in the multitude of items appearing in these books it will be impossible for him to definitely state what any particular item was for with-

out referring to the voucher, and that this kind of question is not at all useful as cross-examination.

Mr. Chambers: Exception.

Q. Then I find an expenditure of $2,765.68 to H. E. Gawtry, for fire insurance.

Mr. Ransom: H. E. Gawtry, *et al.*, Trustee. Why don't you read it all.

Q. Fire Insurance Trustee.

The Master: Same ruling. The Master repeats the statement, that if counsel has any point
19199 in his mind that he wants to make clear, I will let him ask the question that brings out the point. These questions that are asked, to my mind, are useless.

Mr. Chambers: That is what I am endeavoring to do, and I except to the refusal of the Master to allow me to ask the question. I have not even asked it.

Q. Now, you take all these expenditures set forth on 1043 of this exhibit, for insurance, you took them just as you found them here, did you, without making any deduction?

19200 A. I took the balance of the account as it appears on page 1043, which includes the expenditures less the credits that I made.

Q. But you took the balance that is set up in this book?

The Master: So he said. Objection sustained.

Q. Now, this item of $48,722, which you set up here for vacation and sickness in your Exhibit 205, which is found on page 1047 of this operating ledger, did you examine or obtain any information as to what that expenditure was for, outside of what is shown in the operating ledger and the vouchers, to

ascertain if it was a proper charge for cost of production and distribution?

The Master: Objection sustained. Haven't I made myself clear to you, Mr. Chambers, that I do not want this witness's judgment as to whether an item is or is not a proper charge to production and distribution.

Mr. Chambers: I did not ask him that. I asked him what information he used upon which he based his inclusion of it in the cost of production and distribution of gas.

The Master: Objection sustained. 19202

Mr. Chambers: Exception.

Q. Now, take this item of automobile expense, $146,111.75, found on page 105 of the operating ledger, I see it is marked "Defensive Emergency Service," and then is scratched out and somebody has written "Automobile Expense"?

The Master: Was "Defensive Emergency" written?

Mr. Chambers: Yes.

Q. Do you know, was that any expense in connection with the Defensive Emergency Service? Was that like that when you examined the operating ledger? 19203

A. It was.

Q. Now, what automobile expense was that, did you ascertain?

Mr. Ransom: I object to the question.

The Master: No, in view of the appearance of the page, I will let the witness state.

Mr. Ransom: Well, your Honor can very easily see the preceding page when the books were originally opened was marked "Automobile Expense" and the account ran through into the next page on 1058, consequently the original heading that was put on was marked off

The Witness: Simply that it was a bookkeeper's error in writing the name there at the top of the page first. I should say they started to open that account to use it for the Defensive Emergency Service, and then found the Automobile Expense account ran over the preceding page and rather than transfer it somewhere else and not having used this for defensive emergency service, they ruled it out and carried the Automobile Expense over the page, and it represents the expenses in connection with the operation
19205 of the company's automobiles as shown by the entries and underlying data referred to in the account.

Q. Did you examine any papers or vouchers for this expense other than this entry here and the voucher or journal entry, to ascertain what the expense was?

Mr. Ransom: Objection.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Now this expense for superannuation, I see here some expenditures under the name of Central Union Gas Company. Did you examine those vouchers to see, and did they show, what that expense was for?

19206 A. I see no entry under the name of Central Union Gas Company. There is an entry in the account headed "Superannuation," and there is the name "Central Union Gas Company" in there in the item column as against an amount, and against a voucher number referred to, which indicates that the company in this particular item that I am pointing out, paid out $25 on Voucher No. 13767 in favor of the Central Union Gas Company. The voucher itself will disclose what the item was for.

Q. You don't know what it is for now?

A. I do not now recall.

Q. Did you examine anything—you are satisfied that the voucher will show what it is for?

A. I am.

The Master: Objection sustained.

Q. What was this expenditure for superannuation?

The Master: Do you mean what was the account generally for?

Mr. Chambers: Yes. The name don't show.

The Master: Don't your experts know?

Mr. Chambers: I would like to have the witness say, and see if he knows.

Q. Do you know without looking it up in the uni- 19208
form system of accounts?

A. I will read it for you inasmuch as the account is kept in accordance with it.

Q. I mean, you do not know without looking at it, do you?

The Master: Objection sustained. I gather from what you say, Mr. Teele, that the uniform system of accounts described by the Public Service Commission sets up an account for superannuation?

The Witness: It sets up an account for relief department and pensions, and the company separates the expenditures they make into two different 19209
accounts, superannuation and vacations and sickness.

Q. You don't find any such title in the uniform system of accounts, do you?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Now, take the question of taxes and interest for 1918, found on page 34 of Exhibit 205, where is that set up in Exhibit 364, under what heading?

The Master: Taxes. Away down below Renewals and Replacements. See it?

Q. Have you that taxes for 1918?

A. What do you mean, have I the taxes?

Q. Have you before you now both schedules?

A. Yes.

Q. Now, where is that gross earnings tax found in the operating ledger, $78,473.86?

The Master: I will have to sustain that objection, Mr. Chambers. I asked Mr. Ransom to bring me, in the record of the previous examination—what is the amount that you have just asked about?

19211 Mr. Chambers: $78,473.86.

The Master: You will find at pages 3061 to 3066 and 3071 to 3085 a tremendous number of questions bringing out the method by which this tax account was kept.

Mr. Chambers: By this witness?

The Master: Yes, by this witness. What is this amount?

Mr. Chambers: $78,473.86.

The Master: I don't find that just now, but his statement was that they set up every month one-twelfth of the approximate year's taxes, which they adjusted from time to time. We went into

19212 that in great detail.

Mr. Chambers: Only by way of preliminary.

The Master: What is the item you are now referring to?

Mr. Chambers: Gross earnings for 1918, $74,473.86.

The Master: I read here a little while ago gross earnings is included in another account.

Mr. Chambers: That examination was made for the purpose of showing the incompetency of Exhibit 205.

The Master: What is the difference what the purpose was?

Mr. Chambers: It was not complete. It makes a lot of difference, and now I have in mind finding out how he ascertained it.

Mr. Ransom: That was fully gone into.

The Master: I am going to let you ask a few questions, if you can hold it down. I see here on the record:

"Q. That is, you obtained a copy of Exhibit 178, in this case, and of the list of property, or classification of property corresponding to Exhibit 178? 19214

"A. Yes. You will find on this Schedule 14-A, folio 35, that there are two items that are split, miscellaneous rent revenue, and the item appearing in the column applicable to the gas business, the miscellaneous rent revenue derived from the properties classified as being used in the gas business. The amount put in the other column is the rent revenue derived from properties not considered as being used in the gas business. The other item of joint gas rent revenue which is split, shows in the column applicable to the gas business the amount of $99,616.65, which is in acordance with the amount shown on Schedule 6, on folio 7; and the amount shown in the column as not applicable to the 19215
gas business, $120,164.09, is the amount which is derived from the joint gas rent revenue, and also considered as not a part of the revenues, and which is set out on Schedule 6, folio 7. The total of the revenues derived from the gas business is $17,694,772.10, and as computed at the rate of one-half of one per cent the amount of the tax is $78,473.80, being the portion of the total of the gross earnings tax which is considered as being applicable to the gas business, and is shown on page 34, Schedule 14."

Mr. Chambers: I do not care what your Honor

19216 Arthur W. Teele, Cross.

does or what the other side does, I will just state my objections. I will proceed to ask questions and your Honor can rule now, or whenever you think it is right to do so, and I will take an exception. I would like to inquire fully about these and very many other matters. It is a very important part of this case, we think.

The Master: I know it is.

Mr. Chambers: Every item in this exhibit is important.

The Master: I know this tax item is important.

19217

Mr. Chambers: Every item in here is just as important as the taxes.

Mr. Ransom: It is a pity to kill time, when there are so many important items.

Mr. Chambers: I say now, here, that I object to any intimation that I have been killing time. I have not asked a single question in this case that has not been of some importance.

The Master: At any rate that you did not think was of some importance. It is quite apparent from my rulings that I did not think so.

Mr. Chambers: Your Honor is ruling them all out, and I just want to make the record. That is all we are trying to do—to show our position clearly.

19218

The Master: No Court wants to have the same thing gone over twice. What is the last question? Do you know what you had in mind, Mr. Chambers?

Mr. Chambers: I just asked him, I think, if he had this before him, the schedules.

The Witness: No, you asked me where the gross earnings tax was in the accounts.

Mr. Chambers: Well, we found that.

Q. Where is it found in the operating ledger? It does not show on this Exhibit 205 that I can see.

The Master: 1081, 1083 and 1087. What is 1081?

Mr. Chambers: Amortization of debt discount and suspense.

The Master: What is 1081? That is 1083.

Mr. Chambers: 1081 is interest on unpaid taxes.

Q. Is that where this entry is, taxes, 1081? Is that where you obtained your information from about taxes?

Mr. Ransom: I object to the question. That question was fully gone over as to 1081. 19220

The Master: I am going to let him ask a few questions about it.

Mr. Chambers: It could not have been gone over.

A. If your Honor wants me I will repeat the explanation that I made previously, twice I think, in regard to the handling of the account taxes.

Q. No, I am only asking you if you procured your information for Exhibit 364 from this page 1081?

Mr. Ransom: I object to the question on the ground that the matter is entered both in the operating ledger and the operating journal, has been fully gone over, fully explained, commented on most of one session by Mr. Chambers and the witness. 19221

The Master: Look at that page, Mr. Teele. Is that one of the pages you had in mind in making up the taxes?

The Witness: It is one of the accounts to which I had to refer to get the entries leading to the underlying papers and to the information necessary to state the taxes.

Q. There is no such sum set up here on this page

1081 as you have put down here in your Exhibit 205, is there—separate and distinct?

Mr. Ransom: Objected to. That has been fully gone over.

The Master: $78,473.86?

Mr. Chambers: Yes.

The Master: That figure does not appear on that page, does it?

The Witness: That figure does not appear on that page.

The Master: All right; next question.

19223 Q. What gross earnings did you use in order to arrive at that sum?

Mr. Ransom: I object to the question.

The Master: That objection will be sustained because it has previously been covered.

Mr. Ransom: And it is also shown in Schedule 14-A of 205.

Q. You took and deducted something for amount not applicable to the gas business?

Mr. Ransom: From what?

Mr. Chambers: From the gross earnings.

The Master: That is fully explained at folio 9185 and 9186 of the record.

19224 Mr. Ransom: It appears right on the face of the exhibits.

Mr. Chambers: Is there any question pending?

The Master: No, the objection is sustained on the ground it is fully explained at folios 9185 and 9186 of the record.

Mr. Chambers: Exception.

Q. You made that determination, did you not, Mr. Teele, as to what portion of the tax was applicable to the gas business and what was not?

Mr. Ransom: I object on the ground it is fully covered.

The Master: Sustained. It is fully covered at the same points in the record which have already been adverted to.

Q. Did you have before you when you made that determination any other information than is contained in the operating ledger, page 1081, the operating journal which is Exhibit 191—I do not know what folio—and the vouchers set forth in the operating ledger, 1081?

Mr. Ransom: I object. That is fully covered.

The Master: I will let him answer. 19226

Mr. Ransom: In the division of the returns.

The Master: I think he said he looked at the tax bills and the returns and all sorts of things, but I will let him say it again.

Mr. Ransom: And Schedule 14-A in the exhibit divides the items in the return.

The Master: I should not have permitted any preliminary cross-examination and we would not have had this difficulty.

A. I had the copies of the returns made by the company for its various taxes and all of the original tax bills.

The Master: I want to add to what I said before, that the same subject matter appears to be on page 3072 of the record in great detail, and on other pages, and in page 3073, and as I look in the record I find it right along here, the same subject. 19227

Q. And is that all?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. This item of personal taxes payable to New York City for $23,300, what was that for?

A. It was for personal taxes.

19228 Arthur W. Teele, Cross.

The Master: I read from folio 9591:

"Q. Now, the personal tax there, where did you obtain that amount, speaking of the personal tax on the same page?

"The Master: 46?

"Mr. Chambers: No, $23,300?

"A. I obtained it from the tax bill as the amount paid by the company for personal tax for the year 1918.

"Q. Was that a tax on—did you look at the bill or push your inquiries far enough to learn what that
19229 was?"

Objection sustained.

Mr. Chambers: Exception.

Q. The capital stock tax $24,807.38, where did you obtain that from?

The Master: Objection sustained upon the ground that it has been already covered. That question has already been asked and answered.

Mr. Chambers: Where it was obtained from?

The Master: Yes.

Q. You made an apportionment of that tax, capital stock tax, did you?

The Master: Objection sustained as already
19230 answered.

Mr. Chambers: Exception.

Q. What information did you obtain about the capital stock tax outside of the operating ledger?

The Master: Objection sustained.

Mr. Chambers: Exception.

The Master: I hate to spend the time, Mr. Chambers, but just listen to a series of questions on page 3206 with reference to this capital stock tax:

"Q. Where is the other amount, $73,678? Where does that appear?

"A. It appears on journal folio 428, in journal entry No. 1200, and is the amount charged by the company against non-operating revenue deductions, taxes, $48,170.62; the two items together make the total amount of the capital stock tax.

"Q. Did you examine the tax bill?

"A. I examined the tax return.

"Q. That was in the archives of the company, was it, the tax return?

"A. Yes.

"Q. Did you look to see what was set up there as non-operating revenues? 19232

"A. I looked to see, but my statement of the division of taxes was that followed by the company.

"Q. You made no determination of them?

"A. Not aside from that shown on the books."

The Master: Now, what more could you ask?

Mr. Chambers: I might ask some others. Your Honor does not know what I am leading up to.

The Master: Yes, you might. You might waste a whole day on this.

Mr. Chambers: There might be one or two questions that have not been duplicated, leading up to some other matter.

The Master: I am just going to the trouble 19233 of reading you some of the questions that indicate how perfectly absurd it is to reiterate those questions. You have not analyzed the record or made a memorandum of the things you want to ask; that is the trouble.

Mr. Chambers: How does the Court know that?

The Master: It is apparent from the questions asked.

Mr. Chambers: I have a memorandum here.

The Master: When I said to you the other day

19234 Arthur W. Teele, Cross.

that you ought to get down to the tax item I forgot it was so completely covered as it is. That is why I asked Judge Ransom to get the record and point out where it was. I am surprised at the detail in which I allowed you to go into it.

Q. Now, this item of "Over Accrual, 1918, Federal Income Taxes, $177,473.29," you deducted that, I see, according to your Exhibit 205. Why did you do that?

Mr. Ransom: I object to that as fully covered.

The Master: Objection sustained.

Q. Where did you obtain the information in regard
19235 to that "Over Accural of Federal Income Taxes"?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Did the company set up that much in excess of the federal income taxes?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. I direct your attention to an item, "Cash Discount for Prompt Payment of Bills," page 30, Exhibit 205, $15,553.99, under the heading, "Undistributed Adjustments." What bills was that a cash discount on?

A. The hundreds of bills against the Consolidated
19236 Gas Company upon which they received additional cash discount for prompt payment, bills other than bills for construction material, the discount on which is credited to the account "Interest During Construction," as provided in the uniform system of accounts.

Q. The item "Proceeds from Sale of Scrap less Cost of handling"—what is that item? What is that for?

A. It is the amount realized on the sale of scrap.

The Master: Less the cost of handling?

The Witness: Less the cost of handling.

Q. What scrap?

The Master: In other words, it is what it says there.

The Witness: Just what it says.

Q. Scrap of what, meters?

A. No, loose scrap that is not identified with the property from which it originally came, loose scrap such as always accumulates around all plants.

Q. Where, in your Exhibit 205, is included the expense for pumping gas at the 63rd Street holder, can you tell me?

A. On page 17, the expense of operation of the station shown is set out there.

Q. Where is that station located?

A. Which station? 19238

Q. 63rd Street station.

Mr. Ransom: I object to the question.

Q. For which you have included the expense.

The Master: Objection sustained.

Q. Does the Consolidated Gas Company own any pumping station at 63rd Street?

Mr. Ransom: Objected to as fully covered. The situation as to that station is perfectly clear.

The Master: Objection sustained.

Q. How did you ascertain this expense of $3,017.02, at this 63rd Street station?

The Master: I will let him explain that.

A. It comes from the pay roll, distribution of the 19239 pay rolls for that station.

The Master: Part of it was charged against the Standard, was it not?

A. Part of it was charged against the Standard.

Q. And this is the part charged against the Consolidated?

A. Yes.

Q. How did you ascertain what part of it should be charged to the Standard, or didn't you go into that? Did you just take the company's apportionment?

A. My recollection is that the expenses are distrib-

uted on the basis of the ratio existing between the cubic foot capacity of the holders owned by the Standard and the Consolidated.

The Master: That is the testimony, Mr. Ransom, that has been testified to two or three times.

Q. How did you apportion the coal used at that station?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. How did you apportion the coke used at that station, 63rd Street?

19241 The Master: Objection sustained.

Mr. Chambers: Exception.

Q. And the water?

The Master: Same ruling.

Mr. Chambers: Exception.

Q. And the incidentals?

The Master: Same ruling.

Mr. Chambers: Exception. I now offer in evidence petty cash voucher No. 117, paid November 26, 1918, for $20, miscellaneous expense, and call the Court's attention to the fact that this is just taken out at random as indicating what the vouchers show.

19242 Mr. Ransom: It has been taken out by Mr. Maltbie from the vouchers—

The Master: The point is that there are some vouchers that on their face do not show what it is for.

Mr. Ransom: They have found one at least.

The Court: Mr. Chambers is making the record.

Mr. Ransom: What I mean is this, that Mr. Maltbie has gone over this great quantity of vouchers that have been brought here and has detached that from the papers to which it belongs.

Mr. Maltbie: Your Honor, may I make a statement on that inasmuch as he has stated something that is not true?

The Court: No, it is not necessary, Mr. Maltbie.

Mr. Chambers: I will state it for him. That is not true. That paper that I am offering in evidence has not been attached to anything, Mr. Maltbie did not detach it, it was not selected. There are hundreds of others just like it.

The Master: It is one of a large number of vouchers—

19244

Mr. Chambers: Why counsel should state something that is false here I do not know. I don't see what is to be gained by that. Of course, everything is going his way, but it is not necessary for him to state a thing that is not so.

Paper received in evidence and marked Defendants' Exhibit AA-5.

Mr. Chambers: I now offer in evidence petty cash voucher No. 17, which bears the stamp "Paid November 2, 1918." It is dated October 30th, 1918, and runs to Edward B. Brokaw & Company, 200 visiting cards from plate, $1.25.

Paper received in evidence and marked Defendants' Exhibit AA-6. 19245

Mr. Chambers: I only offer this to show the Court of Appeals or any other court that you need something more than these vouchers in order to ascertain what this money is spent for. If anybody can tell what 100 visiting cards are for —whose visiting cards?

Mr. Ransom: Collector's cards.

Mr. Chambers: You add something that is not on the voucher.

The Master: Go on and make your record.

Mr. Chambers: I offer in evidence Petty Cash Voucher No. 114, which appears to be paid November 25, 1918, and runs to Frances B. Magida, care of Robert E. Livingston, and is for ten dollars for two summaries for month.

Paper received in evidence and marked Defendants' Exhibit AA-7.

Mr. Ransom: I now offer in evidence Voucher No. 136, stamped "Petty Cash Voucher, paid November 29, 1918," for $135. It is dated November 27, 1918, "Overtime account Liberty
19247 Bonds and dividend, No. 122."

Paper received in evidence and marked Defendants' Exhibit AA-8.

Mr. Chambers: I now offer in evidence Petty Cash Voucher No. 15, stamped "November 2, 1918," dated November 1, 1918, to H. L. McCormack, $13.63, for 109 affidavits at twelve and a half cents, services rendered at Notary Public to date.

Paper received in evidence and marked Defendants' Exhibit AA-9.

The Master: These are not alone petty cash vouchers, but the whole proceeding is a petty
19248 proceeding, dealing with petty things in a big job.

Mr. Chambers: We might offer the whole vouchers in evidence to show you.

The Master: I think you have offered enough now to make your point.

Mr. Chambers: Any time your Honor feels that you want to stop me, you stop me and I will take an exception.

The Master: Do you mean to offer some more for the purpose of showing the same point?

Mr. Chambers: I mean to offer some more

vouchers, I don't know whether they show the same things. They are vouchers that have been handed to us by the other side.

Mr. Ransom: Pursuant to your request.

Mr. Chambers: Yes.

Mr. Ransom: We have produced several packages.

The Master: You must have some purpose in offering these.

Mr. Chambers: Yes, to show that they do not show what the expense is for.

The Master: I will rule that you need not put 19250
in any more on that, you have enough.

Mr. Chambers: Many of them show on their face that they cannot possibly belong to or be included in gas operating expense.

The Master: Give me one that you want to select as indicating that on its face, which shows that it should not be in gas operation. Pick out the best one you have on that point.

Mr. Chambers: Well, I will offer a couple.

The Master: Take two.

Mr. Chambers: I offer in evidence Petty Cash Voucher No. 93—

The Master: That is sufficient description. If 19251
you want any of these printed in the record all you have to do is to call for the exhibit number.

Paper received in evidence and marked Defendants' Exhibit AA-10.

The Master: Is there anything else you want to offer?

Mr. Chambers: I offer in evidence Petty Cash Voucher No. 103, December 23, 1918.

Paper received in evidence and marked Defendants' Exhibit AA-11.

Mr. Chambers: I will have to offer the others.

Mr. Ransom: I call your Honor's attention to the great number that have been brought here which have been gone over by Mr. Maltbie and Mr. Neumann and Mr. O'Brien and others.

Mr. Chambers: I have not looked them over at all.

Mr. O'Brien: When you finish, I am going to say something in a minute.

The Master: No, you won't not until your time comes.

19253 Mr. Chambers: I challenge that statement. I have not looked these statements over and I have not had time. I have been standing up here and the Court knows I have not looked them over.

The Master: Mr. Chambers there is no sense going into that discussion. I would not let you offer any more if you found any more. You have made your point that there are some vouchers there that do not show on their face what they are for, and that there are some vouchers that show on their face that they are items that you say ought not to be in gas production.

19254 Mr. Chambers: Thousands. I will say there are thousands of them the same way, if my information is correct.

Mr. O'Brien: I wanted to offer some of these vouchers at this time.

The Master: No, it is not your turn.

Mr. Chambers: Your Honor, I understand you stop me from offering any more of the same kind and character?

The Master: Yes, there is no necessity for it.

Mr. Chambers: For other months?

The Master: Yes, no necessity for it.

Mr. Chambers: Now, I offer Petty Cash

Voucher 112, stamped paid October 25, 1918, $11.60, and it says on it Music, $10.00, Cigarettes, $1.60.

The Master: Where is that charged, in Miscellaneous?

The Witness: I don't know whether it is.

Mr. Chambers: Yes.

The Master: Have it marked.

Marked Defendants' Exhibit AA-12.

Mr. Chambers: I will qualify that by saying I don't know whether it is myself. It is a voucher was handed to us. 19256

The Witness: It is a voucher taken out of the petty cash vouchers, the expenditure of which is charged to different accounts as noted on the jacket and it may have been charged directly to some society or others than the Consolidated Gas Company's expense account.

The Master: This also relates to the other vouchers?

The Witness: It may be true with all of them that have been produced here.

The Master: The mere fact that they are petty cash vouchers—

The Witness: The mere fact that they are included in the petty cash disbursements does not necessarily mean they are charged against the Gas Company's expenditure accounts. 19257

Mr. Chambers: Well, we will have to ask him about them.

The Master: No, you won't ask him about them all, Mr. Chambers.

Mr. Chambers: I would like to state upon the record that we asked him to bring the vouchers upon which these Exhibits 205 and 364 were made.

Mr. Ransom: That is not true. Naturally Mr. Chambers did not have the candor to give the jacket in which these vouchers were enclosed. They were separated out so as to create a false impression.

Mr. O'Brien: Your Honor will recall that at yesterday's session, the first day Mr. Teele was on the stand, at the close of the day, you directed him to bring every voucher on which his exhibit was based.

The Master: Wait a minute. Have we got
19259 here for one month or one-half a month all the petty cash vouchers in a jacket that have not been disturbed yet?

Mr. Ransom: Here is one.

The Master: Is that complete, do you think? Where did these vouchers come from that were marked in evidence a few minutes ago? In these sheets that accompany these vouchers, Mr. Teele, I see that in these bundles they have sheets itemizing each voucher.

The Witness: Yes.

The Master: The first column being "Voucher Number," the second column being "Payments
19260 Made To," the third column being "For What," the fourth column the account to which it is to be charged, and the last column the amount.

The Witness: Yes.

The Master: Now, what exhibits did you mark here, Mr. Chambers, for the period between November—November, 1918?

Mr. Chambers: Well, they have disappeared here.

Mr. Ransom: They were taken by Mr. Maltbie.

Mr. Chambers: Well, they must have them here.

The Master: 117, being Defendants' Exhibit AA5, it will be noted is to C. G. M. Thomas, Miscellaneous Expense, and it is charged to G. O. expense. General office expense, I suppose that is?

The Witness: Yes, sir.

The Master: Expenses $20.

Mr. Chambers: And that is included in the—

The Master: That is included in the operating expenses, is it?

The Witness: Yes, sir, general office expense.

The Master: Exhibit AA6, Edward B. 19262
Brokaw, General Office Supplies and Expense and the account it is charged to is Printing and Stationery, $1.25.

Q. And it is included in the expenses?

A. Surely.

Q. The next is AA7, Voucher No. 114, to Magida, $10. What is that charged to?

A. Printing and Stationery, I should say.

The Master: You cannot tell from this just what it is?

The Witness: You cannot tell without pulling out the whole voucher.

Q. It is included? 19263

The Master: You cannot tell without going further.

Q. Defendants' Exhibit AA8, Voucher 136, Overtime account, Liberty Bonds and dividends 132, $135?

A. General Office Expense.

Q. And it is included in Operating Expenses?

A. Yes.

Q. Defendants' Exhibit AA9, H. L. McCormack, Voucher No. 115, $13.63?

A. General Office.

Q. Included in your expenses for operating?

A. Yes.

Q. Defendants' Exhibit AA10, No. 93, Revenue Stamps for $700,000 note.

The Master: It does not appear what it is charged to. Can you tell what account it was charged to?

The Witness: I think my recollection is that the stamps are all carried as cash in the Cashier's Department, and are charged up as used for the purposes for which they are used.

Q. Well, was this included—

The Master: Here is another item of Revenue
19265 Stamps charged to the General Office Expense?

The Witness: That is charged direct to General Office Expense because that was probably purchased and used for some specific thing, and the other one is apparently just general stamps purchased and carried in their stamp account until the stamps are used. I cannot say positively about that.

Q. Defendants' Exhibit AA10 was included in Operating Expenses?

The Master: Yes.

Q. Now, Defendants' Exhibit AA11, Voucher No. 103, Expense of the undersigned *in re* Committee
19266 Work with Mr. Francklyn.

The Master: That is another list. What date?

Mr. Chambers: December 23, 1918.

The Master: Oh, this is November I have.

Mr. Ransom: It is General Office Expense.

Mr. Chambers: No, let us get it. We are challenged here and our good faith is on the rack, and let the Master see whether it is included.

The Master: 103.

Mr. Chambers: Yes.

The Master: It is General Office Expense.

General Office Expenses, Mr. Teele, are included in Operating Expenses?

The Witness: Yes, sir.

Q. Then it was included?

A. If it says in the petty cash voucher that the account charged is general office expense, it is included in the schedules as made up.

Q. Did you look? It does so show.

The Master: The Master states it does.

Q. Then your statement that some of these were not included in your expense, does not seem to be borne out?

19268

The Master: He did not say they were not. He said they might not have been.

Mr. Ransom: He said the jacket with these vouchers contained indications of what they are for.

Mr. Chambers: I have another handful here that are somewhat along the same line, that show, some of them, more clearly than do the others, that it could not be operating expenses.

The Master: Cannot that be shortened, Mr. Chambers? The 1919 schedule is in precisely the same form as 1918. Cannot you bring out the same sources of information relating to these vouchers in some way?

19269

Mr. Chambers: Well, every detail in making up Exhibit 365—

Q. Mr. Teele, every detail in making up Exhibit 365 for the eight months ending August 31, 1919, was pursued in making up this exhibit as for making up Exhibit 364, was it? That is you followed the same procedure?

A. Used the same procedure.

The Master: Made the same investigation?

The Witness: And traced them back to the same sources of entry.

Q. And had the same vouchers before you in some instances, like these we have offered in evidence, where you came to the same expense?

A. Traced them all back through the underlying papers supporting the journal entries.

The Master: What I wanted to get clear in a question, if I can, to save time, Mr. Chambers was about to ask you how you got .0672 per thousand cubic feet for generator coal, and you explained in detail how you got it for 1918?

The Witness: I did.

19271 The Master: That is the corresponding figure?

The Witness: Yes.

The Master: Now, if Mr. Chambers went through the form of asking you all the questions he did with reference to the same item in the preceding year, your answers would be the same?

The Witness: I would make the same answers.

The Master: And so with all the other items here?

The Witness: Yes.

The Master: And any criticism Mr. Chambers has to make about the 1918 items applies with equal force to 1919?

19272 The Witness: No, not with all the items on the schedule, but with regard to these items, because when we get down to the gas transferred, we have a different situation than we had at the end of 1918, so that the amount of the quantities used—

The Master: Are estimated?

The Witness: No, they are not estimated, they are determined this year. I have checked the quantity here in the case of the Astoria against all of their invoices, and in the case of the New Amsterdam Company against their invoices as

rendered, and in the case of the New York Mutual and the Standard Company I have checked it directly against the invoices rendered, and where the invoices did not contain the cubic feet, I have checked it against our own computations of the amount of gas transferred based upon the papers submitted to the Consolidated Gas Company by the companies associated in the transferred gas.

The Master: Then except as to the gas transferred items, there would be no difference in any place.

The Witness: That is the only one that I can 19274
recall.

Mr. Chambers: If the Master please, I would like to protest with all the force at my command against going on this afternoon, for the reason—

The Master: Do not be sure that you are going on. If I do not feel any better by one o'clock we will not go on. But if I can I will go on; that is all there is to it.

Mr. Chambers: We had a long conference of all the representatives of the defendants, counsel and assistants, and it is of vital importance that we have our afternoons for some time to come in order properly to prepare our defense in this case: 19275
that we cannot very well postpone these conferences, nor could we have had them earlier because until now we did not understand just exactly how the complainant was going to develop its case, nor did we fully understand the attitude the Master would take in making rulings upon certain evidence that was offered.

By Mr. Chambers:

Q. I take this item of law expenses of $40,000 found on your Exhibit 365, and then looking at your Exhibit 355 it refers to page 892 of the Operating Ledger for 1919.

19276 Arthur W. Teele, Cross.

The Master: What page is it on, 355?

Mr. Chambers: Page 25.

Q. Is that an estimate or was that an actual expenditure?

A. That is an estimate.

Q. That is an estimate?

A. That is an estimate. The company sets up $5,000 a month until the end of the year, when their actual legal expenses during the year are determined, and if the estimate is over the expenses are credited with that overestimate, if the estimate is under the
19277 expenses are charged with any additional estimates.

Q. So you are not able to say now what they have spent or will spend up to August 31, 1919, for law?

Mr. Ransom: I object to the question. The books will show.

The Master: I will let him answer.

A. That amount is the estimate, as I have stated.

Q. Who makes that estimate, if you did not?

Mr. Ransom: I object to that. It has been fully covered.

The Master: I think that has been fully covered.

Mr. Chambers: It has not been covered, that I
19287 know of, by anybody for this year.

The Master: But the same thing was testified in 1918.

Mr. Chambers: In 1918 he had the disbursements.

The Master: Yes, but he said in that year they set up $5,000 a month and then at the end of the year when they got all their bills in they balanced them off.

Q. You did not, then, have anything before you for law expense except this entry in the Operating Ledger here at page 892 and the vouchers for $5,000 a month?

A. What do you mean, I did not have anything before me? With respect to that particular item?

Q. Yes.

A. That particular item is the result of the journal entry made each month, setting up an estimate of $5,000 for law expenses.

The Master: There is no voucher for $5,000 a month, is there?

The Witness: There is no vouchers. There is a journal entry approved either by the comptroller or assistant secretary.

Q. Have any of the bills been rendered at all this 19280
year, that you know of, for legal expenses?

A. Why, yes.

Q. Did you examine any of those?

A. That is, payments have been made. I do not recall whether the bills have been rendered.

Q. Did you examine any of the payments made? Why didn't you set up what payments had been made?

The Master: He did not answer the other question. See what payments had been made.

Q. Did you look at that? Is the answer no?

A. If you will ask one question at a time, Mr. Chambers, I will try to answer it. 19281

Q. I am doing that.

A. You just asked two or three together.

Q. The Master directs my attention to the fact that I had two and I repeated the one question.

Mr. Ransom: What is the one?

Mr. Chambers: I will ask it again.

Q. Did you look at any of the payments for 1919 for Law Expenses?

Q. None other than those that are shown on account under folio 883, that I now recall.

Q. Those are under Miscellaneous General Expenses, is that right?

19282 Arthur W. Teele, Cross.

A. That is the title of the account on that page.

Q. There is some person there, is there, that you examine the account for?

A. The expense in connection with Gas Rate Appeal No. 2 is charged in this page as shown in the separate column.

The Master: The item on page 25 being $46,320.62.

Q. You examined that expenditure but did you include it in your Schedule 355?

A. It is shown.

19283 The Master: It is shown there on page 25 under 883, Miscellaneous General Expenses—the third item from the bottom.

Mr. Chambers: But I was asking if he examined any of the expenditures that made up this forty thousand dollars. Yes, he tells me about something else; I did not want that.

Q. Did you?

A. Having told you how the forty thousand dollars was made up, your question as to whether I examined any of the expenditures making up the forty thousand dollars it seems to me cannot be answered, as there are no expenditures making up the forty thousand dol-

19284 lars.

Mr. Ransom: The ledger shows under Expense Account the actual outlays for Law Expense.

Mr. Chambers: I think he might tell me.

Q. I asked the question, Did you examine any of the actual expenditures made for Law Expenses for 1919, up to August 31st?

The Master: Which appears on folio 892. Objection sustained upon the ground that the witness says there is not any actual expenditure figured there.

Mr. Chambers: I want to know if he examined any expenditure outside of that, and why he did not set it up.

Mr. Ransom: I object to the question.

Q. Did you examine any of the vouchers for expenditures for Law Expenses? It would be included under this.

The Master: That is the trouble with your question, Mr. Chambers. The witness says that there was not any actual payment included in this forty thousand dollars. He says there were actual payments made, and that you will find under 19286
Gas Rate Appeal No. 2 on folio 883.

Q. Then were there any other?

By the Master:

Q. There is something Judge Ransom says which leads me to assume that there are some other items of Legal Expenses that will be found in Suspense Account.

A. There are.

Q. Did you look at them?

A. I did.

Q. Why did you not include them here?

A. Because the operating accounts for the year were not complete, and therefore I stated in this 8- 19287
Months Statement the amount that is estimated for the eight months. The account for the year not being complete I could not properly pro rate the year's total.

Q. Did you look at the vouchers that are in suspense account?

A. I did.

Q. For legal expense?

A. Yes.

Q. But you did not include those items in here?

A. I did not.

19288 Arthur W. Teele, Cross.

By Mr. Chambers:

Q. I call your attention to the preamble of Exhibit 365, which reads, "Cost of production and distribution eight months ending August 31, 1919," and ask you if there is anything there that shows that this schedule is an estimated cost?

The Master: Objection sustained upon the ground that the paper speaks for itself, and the criticism is directed really to the paper, and the Master has taken notice of it.

Q. Take the items of Claims and Arrears, right on
19289 that same page 25 of Exhibit 355, folio 890; is that an estimate or is that an actual expenditure?

A. That is the actual expenditure.

Q. There is no estimate there of any kind?

A. Not so far as I know.

By the Master:

Q. Does not the book show whether it is an estimate or actual?

A. It is not set up on an estimate basis.

Q. But in reference to any item in that ledger, does not the entry show whether it is estimated?

A. It does.

Q. Or actual?

19290 A. It does.

By Mr. Chambers:

Q. But it says here "General Expense, Telephone Service." Is that an actual expenditure under this?

A. That is the distribution of the telephone operating account, the amount which is charged to Claims and Arrears expense for the particular month in which that entry is made.

Q. It is not an estimate of any kind?

A. It is not. It is the distribution of their share of the operating expense of the telephone exchange for that month.

The Master: It comes through the journal.

The Witness: You read the entry in regard to 1918 for several months.

Q. Shearman & Sterling appear in this right along pretty regularly. What was that, legal expense?

A. Expenses in connection with the prosecution of claims and arrears and the settlement of claims and arrears.

Q. Some back claims, I suppose?

A. The vouchers will show.

Q. Claims for other years—back years, was it?

Mr. Ransom: I object to the question. The 19292
vouchers speak for themselves and the vouchers have all been gone over by the defendants.

The Master: I will let the witness state if he knows.

A. I do not know without referring to the original vouchers how many claims were instituted.

Mr. Chambers: I would like to have counsel produce Voucher No. 9451.

The Master: For what purpose, Mr. Chambers?

Mr. Chambers: To see what it does show.

The Master: Look at it up there.

Mr. Chambers: I do not have any time. 19293

The Master: Have somebody else go and look at it for you. That is the whole purpose of giving you and your men access to all the vouchers up there, so as not to have this happen down here.

Mr. Chambers: Also Voucher No. 9602.

The Master: The Master directs counsel to look at it himself or have some of his engineering assistants look at it up at the Gas Company's office, where they have been subject to inspection for six months, more or less.

Mr. Chambers: Exception.

Q. Did you pursue in ascertaining this expense for "Claims and Arrears" exactly the same method that you pursued in ascertaining "Claims and Arrears" for 1918?

A. Yes.

Q. Take the item of "Insurance," on the same page, 25 of Exhibit 355. Is that an estimate or is that an actual expenditure, that $91,350.84?

A. It is the apportionment—it is made up of the monthly apportionments of the premiums payable upon the fire insurance carried by the company.

19295 Q. The premiums paid may extend beyond August 31st, 1919, may they not?

A. The premium upon which the monthly apportionment is made is the amount of premium which cover a twelve months' period.

Q. You are speaking only of fire insurance, are you not?

A. I am speaking of both.

Q. You are speaking of all kinds?

A. Yes.

Q. Accident, boiler, automobile, holdup?

A. Yes.

Q. Elevator, fidelity, plate glass?

19296 A. Yes.

Q. Now, this expenditure here seems to be out of all proportion to the expenditure for insurance for the whole year of 1918?

Mr. Ransom: I object to the comment of counsel.

Q. When you come to adjust the accounts at the end of the year, this may not continue to run at such a high rate, isn't that so? This might cover the expenditure for the entire year, might it not, or substantially cover it?

A. No, I said it was the monthly apportionment. It

is that portion of the premiums paid covering the year 1919 which applies to the months for which the statement is made up.

Q. It is $89,322.23 for the whole year 1918, and on this Exhibit 355 for just the eight months it is $91,350.84. How do you explain the great discrepancy between 1918 and 1919?

A. I have not made a comparison for the purpose of making an explanation.

The Master: The Master calls attention to the fact that the item for fire insurance for the year 1918 was $33,000 plus, which would be a little 19298
short of $3,000 a month; and that for the year 1919 the fire insurance for the eight months is $22,000, which is pretty close to the same ratio. As to all the other items they run pretty much the same except for accident insurance. For the eight months in 1919 it is $51,000, as against $38,000 for the whole year 1918. Also, automobile insurance for the eight months of 1919 is the same amount as for the whole year of 1918.

Mr. Chambers: There wasn't any change in rate.

The Master: I don't know. 19299

Mr. Chambers: I insure my car—

Mr. Ransom: I know mine has gone up.

Mr. Chambers: Mine is cheaper than in 1918.

The Master: Let us see if Mr. Teele can tell us something about it under oath. Do you know what has made the difference between the total charge for 1918 for accident insurance of $38,000 plus, and for a part of the year 1919 of over $51,000?

The Witness: I cannot at this time, because I have made no comparison for the purposes of ex-

plaining the difference in the cost of insurance. It is not a difficult matter to do, and I shall be glad to compare the details for your Honor if you desire it.

The Master: I see automobile insurance is higher too, and team insurance seems to be higher.

The Witness: My experience is that all insurance is higher than it was last year.

The Master: Fire doesn't seem to be.

Q. It is quite possible that these amounts set up in Exhibit 355 may cover the whole year, there may be

19301 no more expenditure?

A. No, it is not quite possible.

Q. The premiums are paid in advance?

The Master: It is not probable at all?

The Witness: It is not probable at all. I will not speculate on the reason for the difference when it can be ascertained by an analysis of the account, which I will be glad to make and submit if your Honor desires it.

Q. There is nothing set up here month by month in all of these cases. Take "elevator" for insurance is there?

The Master: I don't understand that question.

19302 Mr. Chambers: He said that they set up an amount month by month.

The Master: No, he didn't. He said he figured the eight months.

Mr. Ransom: He says that is the eight months proportion of the twelve months' premium.

Q. Didn't you testify that they set up so much a month for this insurance, a moment ago?

A. There appears to be a monthly amount set up, charged here and set up to the credit of the trustees, to whom a liability exists.

Q. Most of them—take fire, and accident and automobile, it seems to be—

A. There is none included for boiler, or burglar, and only $88 for elevator.

The Master: What is that, 1919?

The Witness: 1919.

The Master: How does that happen: $88 is charged in 1919 for eight months, and it is precisely the same sum as is charged for the whole year 1918?

The Witness: My construction of the matter would be that the amount set up here includes the apportionment of the year's premium.

Q. Do you really know much about this insurance? 19304

A. I said a moment ago that I would not speculate on it when the details can be so easily obtained.

Q. How do you explain that they set up month by month here for fire insurance $2,765.78, and for accident, $4,332.19, and for automobiles, $1,178.25, the same identical amounts month by month—how do you explain that?

A. If the same amount is set up month by month it is because it is 1/12 of the annual premium for the insurance covered for that particular purpose, irrespective of when the premium expires. It might run entirely through the year 1919, it may be for the calendar year 1919, or it may be for from July 1, 1918 on. 19305
My recollection now is that all of these policies run within the year.

Q. If they do that as to those insurances to which I called your attention, why don't they do it for elevator insurance?

A. Well, there is some insurance which they carry outside of the Mutual insurance, and that I believe is the boiler insurance, and the plate glass insurance and the elevator insurance.

Q. Well, it is quite possible that the elevator and plate glass, that this covers the entire premium for the year, isn't it?

19306 Arthur W. Teele, Cross.

A. I don't think it does. I will not say definitely what it covers without looking at the original vouchers.

Q. The company has some kind of an insurance arrangement of its own, has it not?

The Master: Objection sustained.

Q. Do any of these figures which you have given for insurance relate to the company's own insurance carried by itself?

Mr. Ransom: Objected to.

The Master: The company does not cover in-

19307 surance by itself. Objection sustained.

Q. Do any of these figures which you have given for insurance relate to the company's own insurance carried by itself?

Mr. Ransom: Objected to.

The Master: The company does not cover insurance by itself. Objection sustained.

Mr. Chambers: How does your Honor know that?

The Master: Because the proof in the record is that there are trustees of an insurance fund who insure these plants, the same as an outside company might, and each company contributes to that

19308 insurance fund, and pays a premium, the same as they would to an outside company.

Q. They really insure themselves, don't they?

Mr. Ransom: Objected to.

The Master: Objection sustained. The record is quite clear as to that.

Mr. Chambers: Exception.

Q. Now, the item of "Renewals and Replacements" page 29 of Exhibit 355, is this Renewals and Replacement an estimate?

A. It is.

Q. And what is the basis of it?

A. It is set up on the basis of 3 cents per thousand cubic feet of sales.

Q. The same old basis as was set up for 1918, 3 per cent?

A. Not 3 per cent, 3 cents per thousand cubic foot, that is set up for the eight months.

Q. That is a reserve, an estimated reserve, is it not?

A. It is not.

Q. It is not?

A. It is a charge against the expenses.

Q. That is not plant withdrawn?

A. No. 19310

Q. You don't know as to what the renewals and replacements will be?

A. For the year, no.

Q. Then you don't know what meters have been withdrawn?

A. We know what meters have been withdrawn up to this time.

Q. You do?

A. Yes.

Q. Why didn't you take them?

A. Because the withdrawal of all of the plant for the year is not known, and in order to equalize it for the eight months, I used the 3 cents per thousand cubic 19311 feet.

Q. What besides meters withdrawn—what other items do you know that were withdrawn?

A. All the plant that had been withdrawn up to August 31st, and so shown.

Q. Then, if you knew all the plant that had been withdrawn, why didn't you use that instead of an estimate?

A. Because this is an 8-months statement, and if I used all of the plant that had been withdrawn for the eight months it might be all the plant that would be

withdrawn in 12 months, and it would distort the statement to that extent.

Q. Now, what is the 3 cents per thousand cubic feet figured on?

Mr. Ransom: Objected to, it has been fully covered.

The Master: I will let him answer.

Mr. Ransom: It has just been answered, the 3 cents is figured on the number of thousand cubic feet of sales.

Q. The Court directs you to answer, Mr. Teele.

19313 A. The 3 cents per thousand cubic feet is set up at this point to cover the loss on property withdrawn from service when that loss is sustained.

Q. Well, you have to figure your 3 cents on something?

A. The sales are taken as the basis of the computation.

Q. Sales of gas up to August 31st?

A. Yes, sir.

Q. The sales of gas up to that time?

A. Up to August 31st.

Q. What amount of sales of gas did you use on which you figured the 3 cents?

19314 A. It is shown on page 2 of this schedule, $12,253,567,100.

Q. Now, will you please tell me how much plant was actually withdrawn from service as shown by the records up to August 31, 1919, in amount. I call your attention to page 315 of Exhibit 272, and ask you if the amount—

A. $53,390.30.

The Master: Now, you have set up $367,000.

The Witness: Yes, sir.

The Master: How can you justify that?

The Witness: Because at August 31st it is

not definitely determined what property may be withdrawn from service during the fiscal year. The past experience has been that the actual plant withdrawn from service has been at a rate of about three cents per thousand cubic feet of sales, so the year not having been completed, this being only an eight months' statement, I felt justified in using the estimate based upon sales until such time as the final determination of property to be withdrawn during the year was made.

The Master: Now, Mr. Chambers, you have made your point. Let us get along to another 19316
one. That is of some use to me.

Mr. Chambers: I will give you more if you give me a chance.

The Master: I do give you a chance, so far as I think there is a possibility of accomplishing something.

Q. Now, the miscellaneous general expense—

The Master: So you did not make this schedule 355 precisely the same as you did 205?

The Master: I think your Honor in my direct-examination I stated that there was some exceptions to it.

The Master: I know, but I asked you a little 19317
while ago when I thought I was going to shorten this cross-examination, and you said it was the same except for the transferred gas.

The Witness: I did not mean to mislead you in that regard, because there are these two items.

Q. Now, in your 1918 Exhibit 364, you have set up for miscellaneous general expenses $62,944.94, while in this Exhibit 365 you have $88,714.08?

A. Where do you get that from?

Q. Can you explain this large difference, why it should be so much more?

19318 Arthur W. Teele, Cross.

The Master: The gas rate appeal.

The Witness: He quoted figures that I do not identify in my schedule, and I want to know what his figures were.

The Master: In your Exhibit 364 you give as general expenses miscellaneous, $62,000, and if you recall, that was $194,000 less the defensive emergency and United War work items, that brought it down to $62,000?

The Witness: Yes.

The Master: Now, in 1919, for eight months,
19319 you have miscellaneous general expense of $88,000?

The Witness: My schedule says $100,368.82, the one you have been directing attention to, 355.

The Master: Yes, Exhibit 355 shows $100,368. Now, what did you deduct from that to bring that down to $88,000, defensive emergency?

The Witness: Defensive emergency service, $11,654.74.

The Master: That big item of $47,000, the gas rate appeal, makes that difference, doesn't it?

19320 The Witness: Yes, it makes the difference in the figures. This is for eight months.

The Master: I mean it makes the figure for eight months so much higher as compared with the year 1918?

The Witness: Yes.

Q. Is any of that estimated?

A. No.

The Master: None of these items are estimated?

The Witness: No.

The Master: They are actual disbursements?

The Witness: Actual expenditures incurred during the period.

Q. This gas rate appeal, is that this case here?

A. Yes.

Q. I see there is an item of $8,000 to Adams & Chambers.

The Master: They are the stenographers.

Mr. Chambers: Yes, but this company bought twelve copies of stenographer's minutes, and I hope your Honor won't charge the gas consumers for more than one copy. 19322

The Master: How about two or three?

Mr. Chambers: I hope you won't allow them to charge for twelve.

Mr. Ransom: How many are you charging to the taxpayers of the State, Mr. Chambers?

Mr. Chambers: Two, Mr. Ransom; one for Mr. Maltbie and his staff, and one for the Attorney General and his staff.

Mr. Ransom: We are doing more than six times as much work on the case as you are.

The Master: The Master has noted that among the legal rate case or gas rate appeal, or whatever it is called, are items to Adams & Chambers, the stenographers, who are supplying twelve copies to the counsel for the Consolidated Gas Company. 19323

Mr. O'Brien: They have not put that in the figures for the rate case, have they?

Mr. Chambers: Sure, it is right here in the case.

Mr. Ransom: It does not say twelve copies.

Mr. Chambers: I assume that must be their bill for the copies.

19324 Arthur W. Teele, Cross.

The Master: Don't waste time on that. I shall probably exclude that from my calculation, because—I will say now definitely that I will exclude it. It is not an ordinary expense of manufacturing and distributing gas.

Mr. Ransom: But nevertheless the expenses of a rate case are properly chargeable.

The Master: It may be.

Mr. O'Brien: In the next rate case you may charge it.

The Master: If Mr. O'Brien will keep quiet another minute I will explain my view about it. I think that in determining the cost of making and distributing gas I ought to exclude all unusual expenses. In other words, you cannot take any one period and say that is the amount. In other words I cannot take 1919 and say that is the amount and then take 1918 and say that is the amount. I have got to get a rather definite picture of the situation, and it is only a guess, my decision cannot be anything but a guess, and no decision that can be made in this case is more than a guess, and the only point is to get that guess as nearly accurate as possible, in the light of the record. I am quite clear in my mind, and I shall so rule, that in arriving at the cost of making and distributing gas for the purpose of testing the constitutionality of the rate case, an unusual item like $100,000 for emergency work last year or the amount that you expend this year for testing the rate case, is not ordinary expenses.

19325

19326

Mr. Ransom: But take the matter of the defensive emergency campaign, that is necessary under the conditions under which the company had to do business.

The Master: Correct, last year.

Mr. Ransom: And this year.

The Master: And part of this year, but it is probably much less this year, and next year—you cannot possibly have a new rate before the beginning of next year, can you?

Mr. Ransom: But what is to be done with expenditures, for example, when the public authorities of the State impose upon this company an enormous expense for relieving itself of this confiscatory regulation? It must come out of operating expenses under the authorities.

The Master: I think it is properly chargeable, but what I am saying is that in trying to arrive at a conclusion, I am going to eliminate it from my calculation as to what the return ought to be. 19328

Mr. Ransom: I would like to call your Honor's attention to the authorities on that.

The Master: It won't make any difference what the authorities said about it. I am going, if I find by analysis of my figures that this case turns upon my permitting in or taking out the amount that you spent for testing the rate, I shall hold that your case is perfectly hopeless.

Mr. Ransom: I repeat I agree with you on that. 19329

The Master: I am going to leave it out, because if I decide this case I will only decide it for the complainant after I have left out every doubtful item.

Mr. O'Brien: You will have to correct this record, your Honor.

The Master: I will rewrite it for you.

Q. I find here under Gas Rate Appeal No. 2 the payment to E. Henry Lacombe of $1,000. Do you

19330 Arthur W. Teele, Cross.

know what period of time his services covered, whether 1918 or 1919, or when? It appears to be made in January.

Mr. Ransom: I object to the question. Here is an item chargeable to the Gas Rate Appeal. Your Honor has indicated your view on it.

The Master: Objection sustained.

Q. I find another item Whitman, Ottinger & Ransom, $2,500. Do you know what services that covers, whether for 1918, 1919 or 1920? Do you know?

Mr. Ransom: I object to the question.

19331 The Master: What is the question?

Mr. Chambers: There is a payment here to Whitman, Ottinger & Ransom of $2,500. I want to know whether the payment to that firm covered—

The Master: How is that charged?

Mr. Chambers: Under gas rate appeal.

The Master: Objection sustained.

Mr. Chambers: I wanted to know if he knew what period of time it covered.

Mr. Ransom: You are prolonging the period.

Q. I see that your firm, Mr. Teele, although it is Patterson, Steele and somebody else here—a mistake
19332 of the stenographers; I assume that means Patterson, Teele & Dennis—have received $30,000 up to date. What period of time does that service cover?

The Master: Is that charged to gas rate appeal?

Mr. Chambers: Yes.

The Master: Objection sustained.

Mr. Chambers: I would like to ask him this:

Q. Your firm, of course, is being paid for their services in this case?

The Master: You can answer that, Mr. Teele.

A. I expect they will be when their services are concluded.

The Master: You have been getting some money on account?

The Witness: We have been paid on account.

The Master: You got this $30,000 on account?

The Witness: Yes.

Q. Is each one paid by the complainant, or the whole firm?

The Master: Objection sustained.

Mr. Chambers: I want to show Mr. Teele's 19334
interest in it.

The Master: What?

Mr. Chambers: I want to show he is very much interested in it.

The Master: He is a paid witness; that is perfectly clear on the record.

Mr. Ransom: He may be interested in having his cross-examination prolonged, too.

The Master: Mr. Chambers, are you serious about having a conference of the defendants this afternoon?

Mr. Chambers: Certainly. They are all here and you can ask them. 19335

Mr. O'Brien: This is an important conference, your Honor.

The Master: Have you really arranged a conference or arranged a plan?

Mr. Chambers: Subject to your allowing us to.

Mr. Ransom: Your Honor announced you would sit this afternoon.

Mr. Chambers: We said if you sat we could not have it, if you did not we would.

Mr. Neumann: I was at that conference yesterday and it was decided that if they could arrange for a conference this afternoon it would be very helpful and probably save the Master's time.

Mr. Ransom: Was a conference held yesterday afternoon?

Mr. Neumann: There was one held yesterday from 2:00 to 5:30.

The Master: When we adjourn at 1:00 o'clock I will adjourn until 2 o'clock on Monday. I
19337 am not going to assume, though, Mr. Chambers, that it is necessary for you gentlemen to confer every afternoon. I do not know about afternoon sessions, but if I can possibly do it I am going to run afternoons as frequently as I can.

Mr. O'Brien: Your Honor's health will break down.

The Master: Then you will have to get another Master who will rule better. But you gentlemen will have to have in mind that if I find on Monday that we have not finished with Mr. Teele, I am going to try to run all day Tuesday to get through with him. Not in the spirit of oppres-
19338 sion, but just to get through.

Mr. O'Brien: I want to respectfully record an objection to that, your Honor. When I had the witness Brundage your Honor announced the same thing as to the examination there, and compelled us to go on in the afternoon of the last day of the week to finish with the witness Brundage. I do not know how long I am going to take. I may take ten days or may take six days with Mr. Teele, but I am going to try when I cross-examine to drive home something that will be of valve to this record.

The Master: The point about it is this, Mr. O'Brien—not that I am trying to cut you down, but if I see that the examination is taking a greater length of time, I must put in additional hours in the afternoon to get through with it. That is all. I will not sit this afternoon.

Mr. O'Brien: It naturally would be a question of physical endurance, and I tell you now that Judge Ransom had a case of pneumonia last winter.

Mr. Ransom: I never had pneumonia in my life. 19340

Mr. O'Brien: What was it, the grippe?

Mr. Ransom: I had influenza last fall. If the Master please, we have been in touch with the department of taxes and assessments and there remains the examination of one deputy and the continuation with two of the deputies. The chief is very anxious that that go forward at the earliest possible time, because they will be very much tied up unless that is gone forward with early next week. The latter part of the month and the next month they will be very much busier than they will be next week, and he would like to have them go on Monday afternoon. 19341

The Master: We have got to finish with Mr. Teele first. Do not worry about the tax officers. They will come over when we want them. There is nothing so important in that.

Mr. O'Brien: Put it over to January.

The Master: No, they will come over here when I am through with Mr. Teele.

Mr. Ransom: We will advise them of your Honor's ruling.

The Master: Tell Senator Cantor I must finish

19342 Arthur W. Teele, Cross.

with this witness, and as soon as I get through with this witness I will take the appraisers.

Q. Did you take out of your Exhibit 355 the defensive emergency service voucher the same as you did before?

The Master: Does it not figure out that way? What is the use of asking questions? Here is $100,000 and the amount he shows on the other is $88,000.

The Witness: It is 100 less the 88.

Mr. Chambers: That amount was up to Au-
19343 gust.

The Master: It is $88,714.08 plus $11,454.72. It is just correct.

Mr. Chambers: Excuse me, if the Master please, it is in there with Miscellaneous, printed.

The Master: He has got it as a separate item.

The Witness: It is separated, that is all.

Q. It is in. You have put it in this time.

A. It was in before.

The Master: It was in before as a separate item.

The Witness: You are thinking of United War Work Campaign.

19344 Q. Why did you separate that? That is included here under general miscellaneous expense in the operating ledger.

The Master: Did you separate it for the same reason that you did the 1918?

The Witness: I did.

The Master: Objection sustained.

Q. In that defensive emergency service, is that an estimate or is that an actual disbursement?

A. An actual expenditure of the period.

Q. Take under this miscellaneous general expense

the item of miscellaneous boards, meetings, books and periodicals, society of gas engineering, gas accounting society, other societies, publicity expense, new service, supervision of electrical appliances and notary fees. Did you treat those in exactly the same way as you treated those items respectively in the 1918 schedule?

A. I did.

Q. So that to the questions I ask you as to the 1918 schedule you make the same answers to these?

A. The same answers.

The Master: And they will probably be found 19346
in petty cash vouchers in 1919 similar to those produced in 1918?

The Witness: Similar to those in 1918.

The Master: As bearing upon this account?

The Witness: Yes.

Q. Interest on consumers' deposits, did you treat that in exactly the same way as you did interest on consumers' deposits for 1918?

A. I did.

The Master: It shows on its face that he did.

The Witness: There is this difference, Mr. Chambers, so I will not be misunderstood about it—that in 1918 the accrual of the difference in 19347
the balance is on the books. In my schedule for the eight months, of course, that accrual is not on the books.

By the Master:

Q. But it is calculated in the same way?

A. It is calculated in the schedule in the same way.

Q. The amounts actually paid come from the books?

A. They do.

Q. It is only the accrual items you say do not appear on the books?

A. Do not appear in the books.

Q. But are calculated by you the same way?

A. Yes.

By Mr. Chambers:

Q. The uncollectible bills found on page 28 of Exhibit 355, did you treat them in exactly the same way as you did uncollectible gas bills for 1918?

A. I did.

Q. That is not an estimate?

A. It is not.

The Master: They are the bills more than two months old after final bill?

19349 The Witness: Yes, less the amounts collected.

Q. The taxes and interest thereon for 1919, the gross earnings tax, how did you ascertain that, the same as in 1918?

The Master: He should not have done it the same way. He might have as to this, but let him explain it. In fact I would like it if you would take each item and go into detail in 1918 on this tax item, because I can see where some of it might be estimated. That is really what I had in mind when I told you to get the taxes.

Q. Take the gross earnings tax. Is that set up in the ledger here at all?

19350 A. The taxes account and taxes accrued I handled in the same manner in 1919 as they are in 1918.

By the Master:

Q. What we want to know, Mr. Teele, is this—I assume that they are kept in the same way: You have here on page 31 the item New York State Taxes, Gross Earnings, Schedule 14, $87,402.45, less amount not applicable to gas business, $28,675.70, total $56,726.75, carried out chargeable to expense, $58,726.75. I want you to explain to us in detail how and where you got those figures, how you made them up?

A. I took the gross earnings from November 1, 1918, up to and including June 30, 1919, making eight months, and made the distribution of those gross earnings following the same classification that I did for 1918.

Q. Why would you start with November, 1918?

A. Because the gross earnings tax in New York State is levied on a twelve months basis commencing with October 1st prior and it is always two months behind the actual fiscal year.

Q. You calculated the amount of gross earnings since November? 19352

A. From November 1st to June 30th. Only for eight months, because this is an eight months' statement, and based upon the rate and the classification of those earnings as between gas revenues and other revenues, I have included the amount of the tax.

Q. What did you include in gas revenues?

A. The same kind of revenues I included in gas revenues in 1918, and as set out on page 33, which says what revenues I included as gas revenues.

The Master: You have shown on page 33 in detail where that revenue came from, and what would be applicable to the gas business, and what you say would not be applicable to the gas business? 19353

The Witness: Yes, sir, following the same lines as I did in 1918.

Q. You did that yourself.

A. Yes.

The Master: And based upon what did you figure the taxes?

The Witness: At the rate of one-half of one per cent, which is the rate in New York State.

Q. Finally, when the tax is paid, it may not be the same figure as you set out?

19354 Arthur W. Teele, Cross.

A. The total tax will be for this period upon the earnings shown here, exactly the amount I have shown.

Q. Do I understand that this is the tax from November to June, and only figured on the gross earnings from November to June?

A. It is taxes calculated on the earnings from November to June, the eight months period.

Q. What period does the tax cover?

The Master: November to October 31st. In other words, when they pay their bill on the 1st of November, or when they pay it as of November 1st, they are paying for two months of the last years always. I think that is clear enough. Let us get to the next one.

19355

Q. New York City taxes, special franchise—by the way this gross earnings tax has not been paid yet?

The Master: It is not due yet.

The Witness: It is not due yet.

Q. It has not been paid then?

A. The return is made by this time, but it had not been made when this statement was made up.

Q. It is not a payment out then?

A. That I could not say.

Q. Now, the special franchise tax.

19356

The Master: How did you get that figure?

The Witness: The special franchise tax is taken from the special franchise tax for the year 1919, and apportioned two-thirds of it to this period.

Q. That has not been paid, has it?

A. As to any of these taxes bills I cannot say offhand whether they have been paid or not, because I have not looked to see.

Q. You learned that that is in litigation, did you not, contested? Did you learn that?

A. I did not, or if I did at the time I do not now recall it.

Q. You cannot say now whether the amount is contested or not?

A. I will not say.

The Master: Apparently some of these items have been paid, because you have added interest. Now, real estate of corporations—how did you get that figure?

The Witness: That is the amount of the tax assessed for the year 1919, of which I have taken two-thirds. The total amount as shown by the 19358
tax bills is $132,776.

The Master: For the current year, 1919?

The Witness: Yes, sir.

Q. What corporations did you include?

Mr. Ransom: I object to that question.

The Master: We might as well get it clear.

By the Master:

Q. You did not include any other corporation other than the Consolidated Gas Company?

A. And the constituent companies of the Consolidated Gas Company, because as I recall it, these tax bills were made out against the old companies which formed the Consolidated Gas Company. 19359

Q. But what I mean is, not the New Amsterdam, or the Standard or the New York Mutual?

A. Oh, no.

Q. Now, real estate, how did you get that?

A. I have taken the actual tax bills for the year 1919 and have separated the tax bills applying to the properties claimed by the company to be used in the gas business.

By Mr. Chambers:

Q. You used all the properties set forth in Exhibit 178 in pink?

By the Master:

Q. In other words, you took the property that was shown in pink on Exhibit 178, the same as you did for 1918?

A. I did, and then taking the total tax assessed for 1919, I have taken two-thirds of that tax as shown on page 34. I have there shown the total tax against each parcel of property, and the apportionment of it which we have used, and then the division of it in the accounts as between charged to operating expense or charged to miscellaneous rent revenue deductions.

19361 Q. That is what I want to get clear in my mind. When I figure what taxes are applicable to the manufacture and distribution of gas, I am taking the absolutely fixed gross income from November 1 to June 30th, on the basis of one half of one per cent for the gross earnings taxes?

A. That is right.

Q. There is no estimate about it?

A. No.

Q. When I consider the special franchise tax for 1919, that is a bill rendered?

A. That is a bill rendered by the city.

Q. Upon the basis of an assessment made?

19362 A. It is.

Q. Now, that bill is in dispute, perhaps, it may or may not be?

A. It may be or it may not be; as far as I know it is not.

Q. Real estate of corporations—that is a bill rendered by the city for 1919?

A. It is.

Q. That may or may not be in dispute?

A. It may or may not be in dispute.

Q. What I am trying to get at, where there is an

19363

estimate and where there is an assessed value put on, on which the tax is based. Now, as to the real estate of the company. The amount you set for Schedule 34 is an accurate statement of the amount assessed against each parcel designated?

A. Yes.

Q. And the only point I have to consider there is whether you have properly segregated property used in the gas business and property not used in the gas business?

A. Right, and there I have followed the exhibit in this case.

19364

Q. So, if I disagree with the exhibit I will have to change some of these figures?

A. That is quite right.

The Master: All right, I understand it.

The Witness: Having taken those items of taxes set down here I have separated them in here to show whether they are charged against the operating expense or whether they are charged against the rent revenues.

Q. Now, this personal tax, is that a bill rendered?

A. Personal tax is a bill rendered.

By Mr. Chambers:

Q. Now, the office building here, you have apportioned those taxes. Did you make that apportionment on page 34 of Exhibit 355?

19365

A. I show the apportionment of the total tax. The total tax is $53,360—I believe that is the block and lot number, Block 870, Lot 60 and Lot 47.

Q. We will assume that that is the office building.

A. Taking the total taxes for the year I have taken two-thirds of that total tax as applicable to the gas business, and that is apportioned as between—is divided in the same ratio as the floor space occupied;

19366 Arthur W. Teele, Cross.

that is part of the taxes are charged against the rent received from the tenants, and part of the taxes are charged against the Consolidated Gas Company's operating expenses.

By the Master:

Q. You are talking now about Block 870, Lot No. 60, total tax $53,360?

A. And $835.20.

Q. In the next column you say, "Total." What does that total mean?

A. That means the total tax applicable to the pe-

19367 riod.

Q. For the eight months?

A. That is under that subheading of taxes for two-thirds of the year.

Mr. Chambers: May I ask if Exhibit 178 is in court?

Q. Then you have subdivided that into $21,000 applicable to miscellaneous rent revenue, and $14,000 applicable to gas expenses?

A. Yes, sir. In other words, the portion of the tax for the eight months levied against the General Office Building, which applies to the portion of the building occupied by the Consolidated Gas Company,

19368 is charged against their operating expense. The part of the tax against them for the eight months which is applicable to the portion of the building occupied by tenants, is charged to miscellaneous rent revenues.

By Mr. Chambers:

Q. What basis did you have for your apportionment there?

A. The square feet of area occupied by the Consolidated Gas Company and the tenants in the building, as certified to me by Mr. Stark, one of the engineers of the company.

Q. Block 870, Lot 47—have you the exhibit? Lot

47, Block 870, is occupied entirely by the Mutual, isn't it?

A. My recollection is that it is not occupied entirely by the Mutual.

Q. Why did you make that apportionment there? I understand the first apportionment is the two-thirds, but will you please explain the second apportionment?

A. The second apportionment is on the basis of the ratio of square feet occupied by the Consolidated Gas Company.

By the Master:

Q. Mr. Stark certified to you that the Consolidated 19370
Gas Company were using a certain number of square feet area in that building?

A. He did.

Q. And it was on his statement that you apportioned it?

A. I did.

Q. That is all you know?

A. Yes.

Q. You didn't check it up?

A. No.

By Mr. Chambers:

Q. Mr. Stark did certify to that?

A. He gave me a signed memorandum on it. 19371

By the Master:

Q. Have you got it here?

A. Yes, sir.

The Master: The paper that the witness hands me is headed, "Consolidated Gas Company of New York. Floor space, G. O. Building, July 1, 1919"—well, that is the General Office Building?

The Witness: That is all known as General Office Building.

The Master: I see what you did.

Mr. O'Brien: I object to it going on the record.

Q. Mr. Stark gave you a statement which purported to show what he claimed to be the total space occupied by the Consolidated Gas Company in the General Office Building, so-called, including this annex?

A. They call it the Easterly Extension.

Q. He figures that as part of the entire building?

A. My understanding is that the Consolidated Gas Company occupied one floor of that, and the Mutual Company—well—

19373 Q. Well, it would not make any difference.

A. It would not make any difference.

Q. On this certificate given you by Mr. Stark, he certifies to you that the Consolidated Gas Company occupied a certain percentage of the space of the entire building, including the annex or extension?

A. Yes.

Q. And it was on that that you apportioned the taxes on the extension on the same basis that you did on the main building?

A. Yes.

Mr. Chambers: It makes a big difference to us.

19374 The Master: Yes, I get the point. Haven't I got it on the record for you?

By Mr. Chambers:

Q. The next one that seems to be apportioned is Block 951, Lot 35. Why did you make that apportionment, and on what basis did you make it?

The Master: You must have had a certificate of some kind.

The Witness: The apportionment was made for me by the Engineering Department, indicating the percentage of space that was occupied by the tenant from which the rent revenue was derived.

The Master: That is probably what the answer would be right along here. He says the engineers gave him a certificate as to what portion of these various blocks were being used for which they were getting rent. That is all he knows about it.

Q. And it was on that certificate that you made the apportionment?

A. It was.

Q. And who was it occupies some of that, did you find out?

A. On that particular block I think the National 19376
Coal & Coke Company stable is located.

Q. Did you learn how much of it was occupied?

A. The portion on which the division is made.

Q. Can you give that?

A. Thirty-five per cent.

The Master: I do not think that helps us. The point about it is that you did not go there yourself, did you?

The Witness: No.

The Master: You did not make any personal inspection, did you?

The Witness: No, I did not.

Mr. Chambers: I only want to know what 19377
portion he used and how he charged it to them.

The Master: You can figure it out yourself. I can do that for you.

The Witness: It is all charged to expense. Part of it is charged to operating expenses and part to miscellaneous rentals.

The Master: The important point in this connection is that where you have charged up part of the taxes to gas production cost and the other part to rent revenue, you have done it upon a certificate of the engineers as to the portion of the property that was used by other people.

19378 Arthur W. Teele, Cross.

The Witness: And because there is a rent revenue flowing from that property.

The Master: Yes, but the percentage of property occupied, you relied on the engineers' certificates?

The Witness: I did.

Q. You made the apportionment yourself?

Mr. Ransom: It is quite immaterial anyway whether it is deducted from miscellaneous revenue, or whether it is charged to operations.

Q. You made the apportionment, did you?

19379 A. I either made it or had it made.

The Master: You mean the computations?

Mr. Chambers: Yes.

The Master: He probably did not do it himself.

Q. Now, how did you apportion Block 982, how did you come to make that apportionment, Lot 13?

A. On the basis of estimated value of the rented portion which was furnished by the engineers. All these apportionments which we made of these taxes were upon the information furnished to us by the engineers.

Q. Was that value in that case, or percentage of

19380 square feet?

A. It was value, and I think they used valuation in the other cases taking the total assessment—

Q. It was not on general office building?

A. And that portion of the assessment which applies to the property that was occupied by the tenant paying rent.

Q. The question is whether the apportionment was on a square foot area as in the case of the office building, or on value?

Mr. Ransom: There isn't any difference, and I object to it.

The Master: I will allow it.

A. I have the apportionment as given to me by the engineers. Whether they reached their conclusions on a square foot basis, or whether they reached them on some other basis, I may or may not have indicated here in my working sheet, but I have the separation which we made based upon that information.

Q. Well, that separation is right on here, is that what you mean? What we want to know is whether you used a square foot basis or whether you apportioned it on value?

A. In this particular item we used, or there was given to us the valuation of that portion of the premises that were rented, and the ratio of that valuation to the total assessment of that lot and block number gave us the ratio to divide the taxes. 19382

Q. Somebody must have known the square footage of that that was rented?

The Master: Not necessarily. You see, Mr. Chambers, the property that was rented may have been a building and the balance might have been vacant land, and they might have computed it on the basis of the building on the land.

Mr. Chambers: Do you call this a good stopping place?

The Master: No, go ahead and see if we cannot finish up the taxes. 19383

Q. Now, Block 991, Lot 1, and Block 991, Lot 47, you attribute the entire taxes to rent revenue. Can you give me the details? Why did you do that?

A. My notes do not say why it was done, but I assume it was done because there was revenue flowing from the entire lot.

Q. You don't know where you got your information from now, do you?

A. Yes I did get my information from the engineers in the case of all these apportionments.

19384 Arthur W. Teele, Cross.

Q. Now, Block 1090, Lot 23, you seem to apportion that. What was the basis of that? Can you give it to us?

Mr. Ransom: I object to this line of inquiry. That is of no consequence whatever so far as the essential question in this case is concerned. Whether this portion of taxes is charged to operating expenses or whether it is charged against the miscellaneous rent revenue, the effect is just the same one way or another, in either way they charge it against operating expenses.

19385 The Master: Mr. Chambers may want to base some claim on that and I am going to take it on the record.

Q. Will you give us all the information you have?

A. Block 1090, Lot 23, twenty-five per cent of the tax was charged against miscellaneous rent revenue.

Q. And you got that information from somebody?

The Master: And the balance to gas production expense?

The Witness: The balance to gas operations.

Q. Now, Block 1692, Lot 1. Give us the information about that, will you? What was the basis of

19386 that apportionment?

A. I have no note on my work sheet other than the actual apportionment there. I presume—I know the information was given to us verbally at that time.

Q. What was the apportionment?

A. The apportionment is as shown on the sheet, $232 of the tax was charged to miscellaneous rent revenue and $154.67 against—

Q. You do not remember whether the information showed you that it was based on value or square footage, do you?

A. I do not.

Mr. O'Brien: Your Honor, I would like to renew my request as to the different papers that I need for cross-examination, and I referred to yesterday the accounts receivable, reports of branch offices for 1918, reports of rented appliances sold on the district, reports of appliances sold from stock monthly, reports of appliances condemned and destroyed, branch office and repair shop inventories, May and November, 1918, the underlying records for the months that the witness Teele used as a basis of tests, making certain tests at your request, all of the underlying records that have to do with gas transferred, that is the computations made of gas transferred by which debits and credits in the accounts were determined, and the other data that I have referred to yesterday. 19388

The Master: I won't make any further direction on that.

Mr. O'Brien: Your Honor, I will need that for my cross-examination.

The Master: You go up to the gas company's office and determine at that time just what you want to refer to as illustrative documents and they will have them here. 19389

Mr. O'Brien: I further request that all petty cash vouchers be returned here on Monday.

The Master: I won't make any such direction, because I will not let you ask him anything further on that.

Mr. O'Brien: I make the record anyway.

Adjourned to Monday, November 17, 1919, at two o'clock P. M.

Last Complainant's Exhibit 374.
Last Defendants' Exhibit AA-12.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 19393

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 17, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 19394
MR. O'BRIEN, of Counsel for defendant Swann.

ARTHUR W. TEELE resumes the stand:

CROSS-EXAMINATION CONTINUED BY MR. CHAMBERS:

Q. The personal property tax found on page 31 of Exhibit 355, is that an estimate or is that an actual payment? 19395

The Master: Is it an estimate or an actual bill rendered, do you mean?

Mr. Chambers: Yes, an estimate or an actual bill rendered.

The Master: I think it has been answered but I am going to let him answer it again.

Mr. Chambers: I have been trying to find it.

A. It is two-thirds of the personal tax for 1919.

The Master: Are you talking about 1919 now, or 1918?

Mr. Chambers: Yes, 1919.

Mr. Ransom: Two-thirds of the actual bill.

Q. Two-thirds of the actual bill?

A. That is right.

Q. What is that personal property tax on, do you know?

A. I have a copy of the return here which—

Q. Tell us, then.

A. If you will allow me to refer to it, I will.

Q. Yes.

The Master: Does not the statute prescribe what it is on?

Mr. Ransom: Why surely.

19397 Mr. Chambers: I do not think so.

The Master: I think so.

Mr. Chambers: It does not in Albany, I know.

A. Here is a copy of the return as filed by the company, with the amount of the assessment upon which the tax was assessed.

The Master: Hand it to Mr. Chambers.

(Witness complies.)

The Witness: You will see from that return, Mr. Chambers, that there are items deducted on this side specifically.

Mr. Chambers: I ask that that be marked for identification.

19398 Mr. Ransom: I ask that it be marked in evidence.

The Master: It will be marked in evidence.

Mr. Chambers: I object to it being marked in evidence. I ask that it be marked for identification.

The Master: It will be marked as a complainant's exhibit in evidence, subject to your exception.

Mr. Chambers: Just a minute until I get a chance to object. Who offers it, the Court or—

The Master: The complainant.

Mr. Chambers: The complainant offers it. Do you offer that in evidence?

Mr. Ransom: I do.

Mr. Chambers: I object to it on the ground it is incompetent, irrelevant and immaterial, and has not been properly proven; and I take an exception to its admission. I want it marked for identification. Do you mark it for identification first?

The Master: It is identified by an exhibit number.

Marked Complainant's Exhibit No. 375.

The Master: Do not take anything off that ex- 19400
hibit.

Mr. Ransom: It is just a computation, that is all.

The Witness: That is a computation of mine, Judge Ransom.

The Master: Leave it on there. It does not do any harm.

Q. You say the deductions are over here where it says "Deductions"?

Mr. Ransom: The paper speaks for itself.

Mr. Chambers: Well, he said that, did he not?

Mr. Ransom: Yes, and the paper shows it.

Q. What is this computation of yours on the front 19401
here?

Mr. Ransom: I object to the question

The Master: I am going to allow it.

Q. I see the total assets here set up, then the total deductions, and then the balance. Where does it show in here, and was the tax on the balance $680,492.67, did you figure?

A. The tax is computed on the balance of 680, yes.

Q. Where is the list of the property that makes up that balance of $680,492.67?

Mr. Ransom: I object to the question. The

paper speaks for itself. Here are certain items on one side, against which there are certain deductions. The manner of doing it is certainly familiar, and even the attorney-general ought to be familiar with it as the representative of the taxing authority of the State.

Mr. Chambers: I just want to find out.

Mr. Ransom: The attorney-general ought to know it.

Mr. Chambers: The attorney-general ought not to know. I am not running the Tax Department
19403 of the State of New York. I do not know anything about what taxes this company paid—I am trying to find out. I ought to know all the property you got that is taxable, that is all.

Mr. Ransom: The representative of the attorney-general ought to know something about the Tax Laws of the State.

The Master: The Master rules that the paper is self-explanatory, and sustains the objection.

Mr. Chambers: Exception.

Q. The interest on unpaid taxes for the special franchise, what rate of interest did you figure?

A. Interest on unpaid taxes is all calculated—

19404 Q. (Interposing.) Take just the franchise. I want to know the rate of interest that you figured the unpaid taxes at?

A. It is all calculated at seven per cent per annum.

Q. Is the Real Estate and Corporation Tax also figured at seven?

A. I said it was all calculated at seven per cent per annum.

Q. Did you mean all the special franchise or all the unpaid taxes?

A. All the interest on unpaid taxes.

Q. Well, that is what I want to find out. Covering a period of what time did you figure that?

A. For the eight months of 1919.

Q. That is, you began the figure of seven per cent on the 1st day of January, did you, on all those unpaid taxes?

A. Just a minute, Mr. Chambers, and I will tell you. I apparently have not the details of that computation with me, but I will say this, that for unpaid taxes of prior years the interest is calculated from January 1, 1919; interest on unpaid taxes of 1919, if any, is included here and is calculated from the date 19406
in 1919 when interest begins to run.

Q. Is that unpaid interest for taxes unpaid that were due in 1919?

A. It is for the unpaid interest—it is for unpaid taxes at January 1, 1919, on which interest accrues during the year 1919, and unpaid taxes in or for 1919, if interest runs prior to the 31st of August, 1919.

Q. I wish you would tell me what taxes or what Special Franchise Taxes, for what year, are unpaid on which that is based. I know now it is prior to 1919, but what year?

A. If I have got my working paper here, I can give you the full details. If I have not, I cannot. 19407

Q. Also for the other three.

The Master: Where is your office, Mr. Teele?

The Witness: These papers are at Fifteenth Street.

The Master: Cannot you telephone up there to somebody and get them down?

Mr. Chambers: I want the time when you figured the interest from.

The Master: Can you not have somebody telephone up to Fifteenth Street and get them right down?

19408 Arthur W. Teele, Cross.

(The witness directed his assistant to comply with the Master's request.)

The Master: You can go ahead and go to something else in the meantime, Mr. Chambers.

Mr. Chambers: Do I understand he is going to supply that?

The Master: He has telephoned up for his working papers on that. You can go to something else.

Q. This item on page 32 of Exhibit 355 for Miscellaneous Operating Revenue Deductions, turning to
19409 page 942 of this Operating Ledger for 1919, will you please state what that is for?

A. Page 32?

Q. Page 942.

The Master: Page 32 of what exhibit?

Mr. Chambers: Page 32 of Exhibit 355.

A. It is put in for the purpose of reconciling the figures appearing on the books with the figures in the schedules.

Q. Where do you find it here at folio 942?

A. This is the account right here. Operating Revenue Deductions (indicating).

Q. Where is the figure you give, $46,892.28? I do
19410 not see that.

Mr. Ransom: I object to it as immaterial.

The Master: The witness is pointing it out to him.

A. There is the figure on that page (indicating).

Mr. Ransom: The figures put in this schedule are the actual tax figures shown on the face of page 32 of Exhibit 355.

Q. You obtained it under this column of taxes, did you, Mr. Teele?

A. Yes.

Q. Where are the items set up, making that up in

your Exhibit 355? Did you set them up in preceding pages?

Mr. Ransom: I object to the question. It explains right there so that any one can read, that that is not the figure he has taken.

The Master: Mr. Chambers cannot read it, and he wants an explanation. Let the witness give it to him.

Mr. Ransom: The attorney general ought to be able to do something. If he cannot read, why—

Mr. Chambers: You will find out we are doing 19412
something when we are all through.

Mr. Ransom: I object to the question. On the face of the exhibit it appears that that is not the figure that he has put into Exhibit 355.

The Master: Objection overruled.

A. This Exhibit, on page 32, is for the purpose of reconciling the tax figures as charged on the books with the tax figures as set out in this schedule, and the tax figures as they appear upon the books show that on folio 930, under Operating Taxes, there is charged $801,383.29; on folio 942 there is charged $46,892.28, and on folio 945 there is charged $111,176.40, and including the interest on unpaid taxes which appears on 19413
the same page, on folio 931, appears the item of $71,070.73, the total being the amount of taxes and interest as they appear on the ledger accounts of $1,030,522.70. Now, we have set out and applied tax items and interest on tax items, as shown by Schedule 14, amounting to $1,021,049.80, a difference of $9,472.90, that difference being due to the fact that on the books at August 31st they had included in their taxes their estimates, the actual tax bills not being in hand at the time the books were closed at August 31st; but when we came to make up this schedule we had the

19414 Arthur W. Teele, Cross.

actual tax bills in hand, they had arrived, and so by having them in hand I used the actual tax bills in making the apportionment, and set out the taxes included in this schedule, amounting to $1,021,049.80.

The Master: Which shows that the company overestimated the amount of taxes for this period to the extent of $9,472.90?

The Witness: That is the amount on the books in excess of the actual apportionment of the taxes as assessed.

The Master: And it represents the overesti-

19415 mate?

The Witness: It does.

Mr. Ransom: For that time?

The Master: For that time.

Q. On page 26 of this same exhibit you have some items here "Contributions to Employees of the Mutual Aid Society." That is the same sort of expense that you had in your schedule for 1918?

A. It is.

Q. Now, the "Disability," is that the same as the "Disability" in 1918?

A. Yes, sir.

Q. Are those two I just asked you about estimates,

19416 or are they actual amounts?

A. "Disability," that is actual, coming from the pay roll referred to in the ledger account.

Q. Now, "Contributions to Employees in Mutual Aid Society," that is actual?

A. That is actual, coming from the sources set out in the ledger account.

Q. Now, this item of "Superannuation," is that the same, is that an estimate or is that actual, shown on 909 of 1919?

The Master: The objection will be sustained.

Mr. Chambers: Exception.

Q. "Vacations and Sickness," how about that, is that actual or an estimate?

Mr. Ransom: Objected to.

The Master: Objection sustained. The book which counsel has in his hand will indicate it.

Mr. Chambers: I don't know whether it does or not.

The Master: All these matters should have been checked up before this examination was started.

Mr. Ransom: They were checked up months ago. 19418

Mr. Chambers: Exception to your Honor's ruling.

Q. Now, "Claims for damages," did you use an estimate, or did you use the actual expenditure?

The Master: Same ruling. The book speaks for itself.

Mr. Chambers: Exception.

Q. Now, so far as "Claims for Damages" are concerned, did you use or examine any records or papers in addition to the Operating Ledger which I have here in the voucher or journal entries specified there, and if so, what?

Mr. Ransom: Objected to. 19419

The Master: I will let him answer that one question.

Mr. Ransom: We have been over it so many times.

The Master: I know, but this item is different from the other items.

Q. Did you go beyond the vouchers?

A. I did not go beyond the vouchers referred to in the ledger accounts.

The Master: Whatever they may be?

The Witness: Whatever they may be.

19420 Arthur W. Teele, Cross.

The Master: You did not inquire into the justice of the claim?

The Witness: I did not.

The Master: Or whether it was properly allowed?

The Witness: I did not.

The Master: Or whether you would have allowed it?

The Witness: I did not.

Q. Now, the item of salaries for 1919, found on page 24, and set up in the Operating Ledger at page
19421 846, was that treated in exactly the same way as you treated salaries in Exhibit 205?

A. Yes.

Q. Exactly the same way?

A. Yes.

The Master: Is that true of all the items on 355?

A. With the exception of those we have mentioned, the adjustment of taxes—

The Master: And gas transferred?

The Witness: And gas transferred, interest on consumers' withdrawals, renewals and replacements.

19422 Q. Now, the 63rd Street station, employees of boiler and engine house, valve men and miscellaneous, found on page 14 of Exhibit 35, is that treated in the same way that you treated that expense for 1918?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Now, the expense at the 63rd Street station, on page 13, did you treat that the same way as you treated the expense of that station for 1918?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Now, in 1919, the Consolidated Company had no pumping station at the 63rd Street station?

Mr. Ransom: I object to that as fully covered.

The Master: Objection sustained.

Mr. Chambers: Exception. I did not ask him anything about that as of 1919.

Mr. Ransom: The situation has been testified to as to 1919.

Mr. Chambers: By whom?

Mr. Ransom: You were in the court room and should have heard.

Q. Now, the expense for the 63rd Street station set 19424
forth on page 12, did you treat that in the same way that you did the expense of that station in 1918?

Mr. Ransom: Same objection.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Now, the expense for that same station, found on page 10 of this Exhibit No. 355, did you treat that in the same way as you did the expense for that station in 1918?

Mr. Ransom: Objected to.

The Master: Same ruling.

Mr. Chambers: Exception.

Q. As to the 63rd Street station for 1919, how did 19425
you apportion the expense between the Consolidated Gas Company and the Standard, as to that pumping station?

Mr. Ransom: Objected to.

The Master: Same ruling.

Mr. Chambers: Exception.

Mr. O'Brien: While Mr. Chambers is looking up a matter, I would like to bring up the fact that I have requested that papers be brought here. I have followed that up by going to the office of the company and gathering some of those papers

together. They can be put in a dress suit case handily and be brought down. They do not fill vans, and they are not as voluminous as your Honor has thought them to be. I would like to have them here when my cross-examination begins or during it as well as the coal vouchers and the oil vouchers for 1918 and 1919. They are in small bundles that can be readily handled, and when I asked for them today I was told by Mr. Carter that I would have to take that up with counsel. So, that matter is in the air.

19427 There are also pending several other requests, one of which is for leave to inspect the minutes of the company. Mr. Carter has been advised by his counsel not to allow that to be done, but offered to show us simply certified copies of any matter that we say is relevant, in the minutes. I have stated briefly to Mr. Carter that we wanted to inspect the minutes in conjunction with all our work, and that it had a bearing on many points. I am speaking of the minutes of the executive committee, not the Board of Directors. They would have a bearing on our investigation. He says he is acting on advice of counsel in the mat-

19428 ter, and that is something that I would like to ask you to take under advisement, so we can take it up at the close of the session.

The Master: All right, I will think it over.

Q. On page 7 of this Exhibit No. 355 you have set up Rental of Jointly Used Facilities. Now, the use of the 48-inch main, at the bottom, connecting Ravenswood and Astoria tunnels, for which a charge is made to the New Amsterdam Gas Company, did you follow the company's method of apportioning the expense of that to the New Amsterdam, or did you take their books for the method under which it was charged to them?

A. I have testified in regard to this for 1918. I followed the same plan for 1919. That is the plan laid down by the engineer, Mr. Woods, and authorized by the board or by the executive committee. I have traced back these items of rental back to the copies of the bills rendered against the companies for the use of the facilities enumerated in this schedule.

Q. The rent was the same in 1919 as in 1918, was it, for that 48-inch main?

The Master: I suppose this is two-thirds of the year.

A. There is a slight change in one of these I think. 19430

Mr. Ransom: There is a slight variation in some of these capital accounts.

The Witness: I believe there is a very slight variation between 1918 and 1919. The same basis exactly is followed. Whatever that difference is is due to a difference in the investment.

Q. Did you take the company's value of investment in 1919, or did you figure up an investment of your own?

A. I took the investment as established by the engineer, Mr. Woods.

Q. Did you get that for 1919, the investment that you used? 19431

Mr. Ransom: I object to the question. That has been very thoroughly covered by other witnesses, detail figures have been put in evidence, and they are shown by the books.

The Master: No, I will allow that.

Mr. Chambers: Where are the detailed figures shown?

The Master: That is not the point. The point is that Mr. Chambers is entitled to bring out from this witness how he made up this tabulation.

Mr. Ransom: He stated that he took Mr.

19432 Arthur W. Teele, Cross.

Woods' figures, and Mr. Woods testified to the figures.

The Master: I think he is entitled to go one step further and ask this witness.

A. Yes.

The Witness: Your Honor, if I may confer with my assistant on this matter. I went over it this once, but it is sometime back and I would like to confer with him to refresh my memory.

Mr. O'Brien: It might be well to have the record show that Mr. Teele is being assisted by one
19433 of his staff while he is answering his questions.

The Master: Yes, and you can note in addition to what Mr. O'Brien had already noted, that Mr. Teele's assistant hands him papers that he calls for once in a while and points out matters on the papers when he asks him to.

Mr. O'Brien: Yes. It is testifying through the firm.

The Master: Yes. A good way to get testimony, sometimes.

Mr. O'Brien: Well, I have my ideas about it, your Honor.

The Witness: The valuation of the 48-inch
19434 main used by the New Amsterdam Gas Company in 1919 is $213,869.83; at the rate of 12 per cent per annum, or an annual rental of $25,664.38, and the rental accrued from January 1st to August 31st, 1919, is $17,109.56, which is the figure you are referring to.

Q. Now, where did you get that figure of the valuation, of the amount?

The Master: He told us. On the bills rendered.

Q. The bill rendered the New Amsterdam?

A. It is shown on the bill rendered to the New Amsterdam, yes, sir.

The Master: That is where you got it, isn't it?

Q. That is the only place where it is shown?

A. No, it is shown in the report by Mr. Woods.

Q. I mean there is nothing here from which anybody connected with our side—

The Master: Oh, yes.

Q. Well, where would anybody find the computation, or did you go into that, or did you just take figure from the bill?

A. One question at a time, if you please. If you will ask me one question, I will try to answer it.

Q. Yes. 19436

A. What is your question?

Q. My question is did you make the computation as to the amount of the investment in the main?

A. I did not.

Q. You took it from where?

A. In the first place from the accounts as rendered to the tenant companies.

Q. And where did you find that?

A. In the sundry debtors' blotter, a copy of the bills monthly, showing the valuations.

Q. Did you examine anything outside of the entries of the copy of the bill in the sundry debtors' blotter? 19437

A. Yes. We went back to the reports made by Mr. Woods and to the copy of the minutes of the executive committee meeting held on June 24, 1919, and in which the report is adopted, and the charges made to the various companies is authorized.

Q. Where did you find Woods' report?

A. That was furnished to me by the company.

Q. Woods' report to the company, was it? Woods' report to the Consolidated Gas Company?

A. Yes.

Q. You examined that?

A. Yes.

Q. And these minutes?

A. Yes.

Q. Did you examine anything else?

A. I did not.

Q. Where did you find the minutes, up in the company's records?

A. I asked for a copy of the minutes authorizing such charges, and was furnished with a certified copy (handing paper).

The Master: Just hold it You are not asked for it.

19439 Q. Now, the charge to the Central Union for the 48-inch main?

A. The charge to the Central Union for the 48-inch main is based upon a valuation of the portion of the main used by the Central Union of $163,104.54.

Q. Where did you get that sum from?

Mr. Ransom: I object to the question.

The Master: Wait a minute. Give us the whole calculation first.

The Witness: Which at the rate of 12 per cent per annum makes an annual rental charge of $19,572.54, or the rental accrued from January 1st to August 31st, 1919, of $13,048.35.

19440 The Master: Now, did you get this figure from the same source that you got the New Amsterdam figures on the 48-inch main?

The Witness: From the same sources.

Q. That is from Woods' report?

A. I traced these items of rental book to the copies of the bills rendered to the companies, copies of which bills are in the sundry debtors' blotter.

The Master: The Woods report?

The Witness: And I further, upon seeking a further verification of these charges, I asked for a copy of the minutes authorizing these charges.

and was furnished with a certified copy of the minutes of the executive committee wherein the Woods report is referred to; and when I asked for the Woods report, I was furnished with a copy of it.

Q. Now, give us the date of the minutes when you looked at the minutes?

A. June 24, 1914.

Q. The same date?

A. Yes.

Q. And was Woods' report the same report that had them all in, then I won't bother to ask about them again? Did it have all the names in it, the same report? 19442

A. Yes.

The Master: And this resolution covers them all?

The Witness: Yes.

Q. All found on this page 7?

A. Yes.

Q. Now, the land, holder and accessories at Kingsbridge, what amount did you use there, or did you find was used there as the basis of that charge?

A. The valuation for the portion of that property used in 1919 is, for the holder, $522,500, and for the land $109,000. I will state them separately, if you wish. 19443

Q. Now, the accessories, you haven't given me that, or does that go with the holder?

A. I don't know what you refer to.

Q. You have got land, you gave me that?

A. Holder and so forth, and the land.

Q. Holder and accessories.

A. The land is one item, the holder and everything else is another item.

Q. That is what I am asking, if they go together in that sum you gave?

A. Yes.

Q. And the same minutes and the same Woods report cover that?

A. Yes.

Q. The 36-inch distributing main in the Bronx, to the Central Union?

A. The valuation placed upon that portion used by the Central Union in 1919 is $295,625.

Q. The same Woods report and the same minutes?

A. Yes.

Q. Now, the 30-inch transfer main in the Bronx,
19445 the Central Union, what valuation did you use there?

A. The valuation placed on that portion of the main used by the Central Union Gas Company in 1919 is $427,487.40.

Q. The same Woods report and the same minutes, you say?

A. Yes.

Q. Now, the mains in the Bronx first, what were they, can you tell me?

Mr. Ransom: I object to the question.

The Master: I will let him say.

Mr. Ransom: Those have been fully described.

The Master: Not by this witness. His figure
19446 may have reference to only part of the mains that some other witness described.

Mr. Ransom: This same charge was testified to by Mr. Brundage and Mr. Woods.

A. The mains in the Bronx, the small mains in the Bronx to which you are referring, the rental is charged upon the basis of a report made by Mr. Brundage in 1909, and there has been no change since that time.

Q. You used Mr. Brundage's report in this instance?

A. That is the basis of the charges made by the company upon those mains.

Q. Well, now, the question before you was not that, but what mains were they, where were they and what were they?

Mr. Ransom: I object to the question. That has been exhaustively gone over.

The Master: I will allow it.

Mr. Ransom: Exception.

The Master: Can you tell Mr. Chambers what mains are affected?

The Witness: I cannot, other than what is described in the report.

The Master: Well, what is that. 19448

Q. What mains are those described in the report?

A. The report speaks for itself (handing paper). I could simply read the report.

The Master: Well, read it. You may read it, Mr. Chambers.

Mr. Chambers: I don't want to be penalized.

The Master: You won't be penalized. You may look at it.

Mr. Ransom: Your men have had it. If you do not want to look at it, hand it back.

Mr. O'Brien: I would not grab it out of his hand, though,

Mr. Chambers: The Master says I may look at 19449 it without its being admitted in evidence thereby, and counsel for the complainant with a swoop grabs it out of my hand and hands it back to the witness.

Mr. Ransom: An inaccurate statement like some others that have been made.

The Master: I suggest Mr. Teele describe these mains.

Mr. Chambers: I suggest the Master note if I have made an inaccurate statement.

The Master: I will have the witness read the report.

The Witness: Shall I read the whole report, your Honor?

The Master: I want you to read as much of that report as would describe the mains that we are talking about. If it is the whole report, you will have to read it all.

Mr. Ransom: I object to the question. The report speaks for itself. The witness has not personal knowledge of the mains.

Mr. Chambers: The report is not in evidence, that is all.

19451 The Witness: I shall have to withdraw my statement. I thought I had the report made by Mr. Brundage in my hands, but it is not the report of the mains in the Bronx which I have in my hands.

The Master: Was this charge made on a Brundage report?

The Witness: My recollection is that that Brundage report was marked in evidence some time ago.

The Master: No, I do not think it was.

Mr. Ransom: Mr. Brundage testified about it, and he submitted and there was received in evi-

19452 dence a detailed description by Mr. Brundage in tabulated and summary form of those mains.

The Witness: Yes.

Mr. Ransom: Describing each one of them with great particularity.

The Master: We will get through with this very quickly. You cannot describe the mains, can you?

The Witness: I cannot.

Q. Do not know what the mains were now?

The Master: No, he cannot tell you.

Mr. Chambers: I wish he would just answer that now.

The Master: You cannot tell us now?

Mr. Chambers: What mains they were?

The Witness: I cannot.

Mr. Ransom: He might describe them.

The Witness: I know there were certain small mains used in the Bronx, owned by the Central Union Company.

The Master: Well, you cannot tell us that?

The Witness: I cannot.

Q. The charge to the Astoria Light, Heat & Power Company, 111th Street station, where did you find out that figure, or what was the basis of the charge there 19454
of $7,566.68?

Mr. Ransom: I object to the question. These matters have been fully covered in connection with Exhibit 205, in connection with Mr. Brundage's testimony.

The Master: I will overrule the objection.

Mr. Ransom: Exception.

A. The charge against the Astoria Light, Heat & Power Company for the use of the property set out on this schedule, on page 7, being the property at 21st Street, 42nd Street and 111th Street, is in accordance with the report made by Mr. Brundage to Mr. Carter under date of June 5, 1909. 19455

Q. You used that report?

A. That is the report, and the recommendations made in that report were adopted by the company as the basis of the rentals charged.

Q. Was the same amount used for each year; that is, take the land, that runs the same, does it, for 1918 and 1919?

A. The total rental for the three stations 21st Street, 42nd Street and 111th Street amount to $26,000 per annum, and we have taken two-thirds of the rental for those eight months, which is $17,333.33.

Q. What was the value of the land? What land was it and what was the rental for the land? Can you separate those for me?

Mr. Ransom: I object to the question. That has been fully covered. It is purely a part of this time killing.

Mr. Chambers: I object to that phrase "time killing."

The Master: I will allow the question.

Mr. Ransom: Exception.

A. I cannot describe the land other than what is
19457 covered in the report.

Q. You cannot tell me what land it was at 21st Street?

A. I cannot describe it.

Q. Or of which one of those stations?

A. I cannot describe it.

Q. Nor the bulkhead?

A. The report speaks for itself.

Q. Nor the conveying apparatus?

A. The report speaks for itself, Mr. Chambers.

Q. I am asking you if you can tell me where the land was at each one of the stations?

Mr. Ransom: I object to the question.

19458 Q. (Continued.) Where the bulkhead was and where the conveying apparatus was?

Mr. Ransom: Those things have been fully and minutely described at the request of the attorney general.

The Master: Let me see it. (Witness hands Master report.)

The Witness: You see, the items of valuation are set down there for each station.

The Master: Why are you afraid to take this report?

Mr. Chambers: I do not know anything about it.

The Master: Take your chances.

Mr. Ransom: I am willing to offer it if he does not want to offer it himself.

The Master: You do not have to offer it.

Mr. Ransom: It is quite inconsequential, but the property has been minutely described both by testimony and by an exhibit.

The Master: I think in the interest of the defendants I shall have this marked as a complainant's exhibit.

Mr. Chambers: If your Honor please, I want to object to it

19460

The Master: Well, I am going to make it clear upon the record that I am not going to take any fact or statement in this report as binding on the defendants. I am taking it in evidence simply in amplification of this witness's testimony as to how these figures were arrived at, that is all. I think that you will want it when you read it. You object to having it marked, then, do you?

Mr. Chambers: Yes, seriously I object.

The Master: Then I will not have it marked.

The Witness: This is only the basis of a charge.

The Master: There is not a thing in there that will help you or hurt you; but if you object, I will not take it. 19461

Q. Answer those questions I put to you. Are you able to tell?

Mr. Ransom: I object to the question.

The Master: Tell what?

Mr. Chambers: At which one of the three stations the land was located at?

Mr. Ransom: I object to the question.

The Master: I want you, Mr. Teele, to look at that report now before you answer, and I want

you to tell us if you can the basis upon which these charges were made.

Mr. Ransom: He has explained that.

The Master: And if in order to do that you have got to read that report, read it.

Mr. O'Brien: Take your own time, Mr. Teele.

Mr. Ransom: No, take the company's time.

The Master: If he says that in order to answer that question he will have to read that report, I am going to mark that report and that will end it.

The Witness: I will read from the report.

19463 Mr. O'Brien: On the theory that he is refreshing his recollection?

The Master: No, he has been asked "How did you get this figure" and he says, "I looked at a report."

Mr. Chambers: No, I am not quite asking him that.

The Master: What are you asking him?

Mr. Chambers: He has three stations here and he has charged up for use of land.

The Master: Yes.

Mr. Chambers: Now, I want to know if he knew when he made up this exhibit what land the

19464 charge was for?

Mr. Ransom: That is not the question that is before the Court.

Mr. Chambers: I do not care where he got it from; I want to find out.

The Master: Well, listen to the question. Put that question.

Q. Mr. Teele, you have "Use of land, bulkhead and conveying apparatus at the following stations." When you made that statement up at which of the stations was the land, at which the bulkhead, and at which the conveying apparatus, if you knew when you made up the statement?

A. The description used in this schedule is one that is taken, I think, from the copies of the bills rendered to the companies.

By the Master:

Q. That is not the question. Tell us what was charged to 21st Street. Was the land?

A. There was a valuation of land.

Q. Was there a bulkhead?

A. A bulkhead and use of discharging apparatus.

Q. As to 42nd Street, was there any land?

A. There was land.

Q. Bulkhead?

19466

A. No bulkhead. There was discharging apparatus and dock apparatus and taxes.

Q. As to 111th Street, was there any land?

A. There was land.

Q. Bulkhead?

A. Taxes and use of discharging apparatus enter into the computation.

Q. No bulkhead?

A. No bulkhead. So that the bulkhead is only included in the 21st Street rental. That land and discharging apparatus and other items entering into the computation existed in all three stations.

The Master: Next question.

19467

Q. Are you able to segregate the value of the land that you found, the value of land on these books, from the other property, for the 42nd Street station?

The Master: Tell us how these figures were arrived at.

A. By putting down the value of the real estate at 21st Street at $36,600; rental at five per cent, $1,830

Taxes	470
Rent of bulkhead	1,602
Use of discharging apparatus	1,500
Total	$5,402

To that is added ten per cent, making a total of $5,942
and the round figure of $5,950
was adopted as the rental charge.

The Master: Now, take 42nd Street.

Mr. O'Brien: The witness is reading figures prepared by Mr. Brundage and not by himself.

The Master: He is giving you the figures he used in his tabulation. He has not sworn whether they are right or wrong.

The Witness: The computation for the rental charge at West 42nd Street is based upon the
19469 following:

Valuation of the real estate $54,000.00	
Rental at 5%	$2,700.00
Tax estimate	865.00
For the use of discharging apparatus	2,915.00
Dock charges	1,440.00
Total	$7,920.00
To that is added 10%	792.00
Making a total of	$8,712.00

The round figures of $8,700 is taken as the rental charge. The computation for the charge at East
19470 111th Street is based upon a valuation of real estate of $121,750.00

Rental at 5%	$6,087.50
Estimated taxes	1,611.00
Charge for use of discharging apparatus	2,603.00
Total	$10,301.50
Added to that 10%, or	1,030.15
making a total of	$11,331.65

The round figure of $11,350 was taken as the rental charge.

Q. Now you don't find those figures in the operating ledger, or the sundry debtors' blotters, do you, or did you?

A. I think the valuation upon which these rental charges are made is shown in some of the bills. I am not sure whether it is shown in all of the bills or not.

Q. You mean some of the bills in the sundry debtors' blotter?

A. Some of the bills in the sundry debtors' blotter.

Q. In order to find those bills you had to page through this sundry debtors' blotter, didn't you? 19472

A. I had to work for it.

Q. You had to page it through?

A. I had to look for it.

Q. It is not indexed?

A. It is not self-indexing.

Q. Page by page, you have to wade through it?

Mr. Ransom: It must have taken 10 or 15 minutes.

Q. Has the information in regard to the taxes come down yet?

The Master: Mr. Chambers wanted to get what the unpaid taxes were on January 1, 1919, on which interest was calculated. 19473

Q. I wanted to know when he begins to calculate his interest on the unpaid taxes?

The Master: I am quite sure I have accurately stated the subject of your inquiry. What was the amount of unpaid taxes January 1, 1919, on which you calculated interest from that date?

Mr. Chambers: That is part of it. I wanted to know what the taxes were, going back.

A. The interest includes only the interest accrued within the eight months of 1919.

Q. I heard you say that before?

A. I did say it the first thing.

The Master: On what, Mr. Teele?

The Witness: It covers—

Real estate	$ 717.86
Personal taxes	15.76
Interest on special franchise taxes	29,922.47
Interest on real estate corporations	37,629.91

Q. Were those amounts that you were giving me interest or taxes unpaid?

A. You asked for the interest and I gave you the interest.

Q. Excuse me, the Master asked you and I asked
19475 you for the amount of taxes unpaid on each one of these things on January 1, 1919?

A. At January 1, 1919.

Q. And then we want to know what taxes they were.

A. Now, which do you want to know?

Q. Both.

A. You want the unpaid taxes December 31, 1918?

The Master: Yes, what they were and the amounts.

A. Real estate taxes for 1901	$ 2,085.65
Real estate taxes for 1902	1,818.73
Real estate taxes for 1903	2,643.53
19476 Balance on 1915 taxes on No. 130 East 15th St.	15,895.00
Balance of tax for 1918	7,671.96
Special franchise tax:	
1913, Manhattan and the Bronx, unpaid balance	148,848.43
1914, Manhattan and the Bronx, unpaid balance	146,366.49
1916, Manhattan and the Bronx, unpaid balance	60,412.44
1917, Manhattan and the Bronx, unpaid balance	154,526.93
1918, Manhattan unpaid balance	131,041.12

Real estate of corporations:	
1913, Manhattan and The Bronx	119,822.00
1914, Manhattan and The Bronx,	117,459.70
1915, Manhattan and The Bronx,	122,816.89
1916, Manhattan and The Bronx,	134,103.20
1917, Manhattan and The Bronx,	132,710.60
1918, Manhattan and The Bronx,	155,122.20
Federal income tax:	
Estimated amount for 1918	215,000.00
Personal tax:	
A disputed balance for the year 1918	985.18
This makes the total of taxes unpaid, December 31st, 1918	$1,669,330.00

19478

Q. And then these different amounts you have given me is the interest that you say will accrue in 1919 on these unpaid amounts?

A. It is the amount which did accrue up to August 31, 1919.

Q. Did you make any effort to ascertain whether any of those taxes will ever be paid, or what condition they are in, those old taxes?

A. They are assessed against the company; I do not know of anyone but the Court to determine whether they will ultimately be paid or not.

Q. Most of them are in litigation? 19479

A. I don't know whether litigation has been started on them or not.

Q. Did you go through them in any way to see the condition of them, to see what the present likelihood was of their being marked off?

A. I don't know what you mean by the present condition of them, or the present likelihood.

Q. Well, I will give you a bill of particulars.

Mr. Ransom: The Attorney General ought to know whether they are likely to be marked off.

Q. Now, the special franchise taxes, are those all in litigation?

19480 Arthur W. Teele, Cross.

A. I don't know whether litigation has started on those items or not.

Q. Real estate, are those taxes in litigation?

A. The same answer to all of them.

Q. The same answer to all of them?

A. Yes.

Q. So then you don't know the present status?

A. I don't know whether litigation has been started on any of these unpaid tax items or not.

Q. Do you know the present status of any of them?

A. I don't know anything further than that they
19481 stand assessed against the company. I have no information leading me to believe that they are cancelled and, therefore, they are a charge against the company until cancelled.

Q. Where did you get your information that they are assessed?

A. From the original tax bills.

Q. You found those, did you? Did you examine the original tax bills?

A. The original tax bills were produced to us.

Q. Did you examine them?

A. I think we examined all the unpaid taxes except—I don't know that there was any exception.

19482 Q. Did you look into the settlements made by the company of back taxes from time to time and see if any of these were included?

A. Settlements of back taxes that were made by the company since 1906, did not disclose from the records that any of those items which I have read have been settled.

Q. What you found disclosed was that the tax on real estate corporations had not been paid prior to 1912?

A. None of the items which I have mentioned here have been paid.

Q. What I mean is, no tax on real estate of corporations was paid prior to 1912. You found that, didn't you?

A. I did not.

Q. Did you find that the company had paid some items?

A. I found that there were items of real estate corporation taxes that were paid prior to 1912.

Q. How much, do you remember?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Did you ascertain what was the basis of the last 19484
settlement by the Consolidated Gas Company for the tax on real estate of corporations?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. Ransom: If there are any of these taxes that any of the defendants here in court say will not be enforced against this company, I shall be glad to have them so state, and have them taken out.

Q. Now, take Exhibit 366, take your item of taxes and interest thereon for 1906 of $604,247.63. What part of that is made up of New York City taxes on special franchise?

19485

Mr. Ransom: I object to the question. It seems to me it is within your Honor's sound discretion to control the kind and extent of cross-examination which can serve any useful purpose; that this would serve no useful purpose. Here is a proposition going back to 1906, eliciting details that are fully shown in the books, that have no particular bearing upon the issue that is now before your Honor.

The Master: Oh, yes, I think it has a bearing.

19486 Arthur W. Teele, Cross.

Mr. Ransom: The question of what were the details of taxes in 1906, of course, the books show. It is entirely a question of what your Honor thinks would be helpful in that respect.

Mr. O'Brien: What books?

Mr Chambers: I am frank to say we are preparing our evidence from tables 1906 down to the present time just as this exhibit shows.

The Master: Are you preparing a table that will match up with 364 and 365?

Mr. Chambers: Yes, if the Master please, our
19487 version of it, as near as we can. That is why we have tried to be thorough in cross-examining, so that we could eliminate wherever it was possible to eliminate, and use their figures wherever it is possible to use them in our tables.

Mr. Ransom: In view of the statement which counsel has just made, I am inclined to think my objection is exceedingly well founded. Let them prepare their tables as to those prior years. As a matter of fact, under the view which your Honor has taken regarding tabulations, any tabulations do not have any great importance, although I certainly think they do have more im-
19488 portance, perhaps than your Honor has indicated. But they have got the books, they are making up their own tabulations from the books just as we have made up ours.

The Master: I think we ought to have perhaps a little more detail as to just how this was made up.

Mr. Ransom: As far back as 1906?

The Master: Well, any one year will bring out my point. Where did you get, Mr. Teele—

Mr. O'Brien (interrupting): Will your Honor hear me before you catechise the witness?

The Master: Not now.

Mr. O'Brien: I want to say just a word on this very point.

The Master: I don't want to hear it.

By the Master:

Q. For instance, take this item of taxes, you have just been asked about by Mr. Chambers, $604,247.63. Did you analyze that account the same as you did the 1918 taxes?

A. I have a statement here which will show you exactly how much of each kind of tax is included each year. 19490

Mr. Chambers: That doesn't answer the question.

The Witness: I made it for my own information, or to answer any questions that might be asked on it.

Q. Did you analyze the account for each year the same way you did 1918?

A. No, sir; I did not.

Q. This schedule does not pretend to be as analytical as your figure for 1918 and 1919?

A. It does not.

Q. What does it mean?

A. It means this: If you will bear with me just long enough to describe how this statement is made up. 19491

Mr. O'Brien: If you don't make a speech, I will not object, but I will not bear with you—

The Witness (interrupting): Do you want me to state how this is made up, or don't you?

Mr. O'Brien: The Master has asked a question, and I may object to it.

The Master: I did not ask Mr. O'Brien to address the witness.

Mr. O'Brien: Well, I may object, your Honor.

The Master: Well, when the time comes you may object.

Mr. O'Brien: I don't think that ought to be received in evidence.

The Master: I know you don't.

Mr. O'Brien: The foundation for it, the only book in evidence covering these years, is the operating ledger.

Q. Tell me what Exhibit 366 purports to be, will you?

19493 A. I have taken the closing entries of the Gas Company for each year and set them down in their respective years; I have then taken the entries which were subsequently made in profit and loss accounts of subsequnt years which contain the record of transactions prior to that particular year in which they are made, and I have distributed those over the years to which they relate.

Q. Well, illustrate what you have just said by stating what kind of an entry it would be that you found in profit and loss which you distributed?

A. Taking any settlement that may have been made

19494 of something that was in dispute. After the accounts are closed for the year, any entry which is made which affects that account if it is of any material size, would be made direct to profit and loss instead of the current year's transactions, and where such entries have been made in the profit and loss account, I have redistributed those to the prior period, that is to the year in which the transactions accrued.

Q. Well, go ahead; I interrupted you. You took the closing entries, you say?

A. Having done that, I have reached this statement of revenues and expenses. Our basis for making this

statement of revenues and expenses, of course, is the revenue and expense account as shown by the operating ledgers at the close of the year. Starting with that as the basis, if I found entries in subsequent years which related to those prior years, I have redistributed them back over the period to which they belonged.

Q. For instance, taking this "gas residuals produced, less expense," did you make that up, or is that the closing figure under that heading?

A. That is the closing figure.

Q. That is all you know about it? 19496

A. I don't think there are any adjustments to that, but this statement as it stands, is a very much condensed statement.

Q. I want to see just how far cross-examination is going to be of any help to me. Take this item "Cost to distribute, 1906, $2,059,000." Did you attempt to justify that figure at all, or just simply say that is the closing figure?

A. I have simply taken the figures as shown by the operating ledgers, except as I may have found entries in subsequent years which related directly to any prior year, and then, of course, I have spread those 19497
over the year in which they belonged.

Q. You did not attempt to justify any figure on here, did you?

A. Other than 1918.

Q. Yes, I mean other than 1918?

A. Of, course, we have examined particularly the taxes. We have gone back and examined all the tax bills right straight through. I do not think that there is a tax bill in these years that we have not examined, because we have had to separate taxes here. We have had to take properties that were claimed to be used

19498 Arthur W. Teele, Cross.

by gas company in the gas business as shown by their schedules already in evidence, and we have had to take the taxes on those properties during these years and separate them from taxes on other properties, so that so far as taxes are concerned we have examined all of the vouchers, all of the tax bills in each of those years, and have separated those taxes charged on other properties than those claimed to be used by the company in the gas business, so far as real estate taxes are concerned. We have set them down year by year.

19499 Q. Well, that segregation was made on a certificate to you as to what properties were used in the gas business, and which were not?

A. They were made on the certificate which is already in evidence, and which we, of course, had to refer to constantly.

Mr. O'Brien: You mean Exhibit 178, don't you?

The Witness: I think it is Exhibit 178.

Mr. O'Brien: Your Honor, in view of the statement of the witness as to this paper, I move that Exhibit 366 be stricken from the record.

19500 The Master: Motion denied.

Mr. O'Brien: In that connection I desire to say that there is no book in evidence covering years prior to 1918, and no general book of account except the operating ledger, and the witness has made clearly here a statement that he has not gone into any of these figures to justify them, he has taken certain closing figures at the end of each year, he has not given the same examination to them that he did to the years 1918 and 1919.

The Master: I received the paper, and it is going to stay in as a tabulation prepared by this witness as to what he claims these operating ledgers in evidence for those years show. That is all.

Mr. O'Brien: Well, it destroys its force as evidence. It might just as well be out as in.

The Master: I don't want any discussion. Mr. Chambers, if you think there is any question that is useful on cross-examination, I will hear you. I personally do not think there is much that you can ask that is of any use to us.

Mr. Chambers: Well, I want to go into it just as I have for 1918. 19502

The Witness: We also did the same thing with the "miscellaneous rent revenues" because we had to separate the rent revenues into either coming from property which was not claimed to be used in the gas business, or property which was claimed to be used in the gas business, so that we, on miscellaneous rent revenues, and on taxes, examined through thoroughly in each year.

Q. These figures you give as to profit and loss each year, do not coincide with the profit and loss balance of the gas company for any of those years?

A. You mean as shown by the books? 19503

Q. Yes.

A. It does not coincide with the profit and loss account.

Q. No, that is what I mean.

A. Because we have, as I say, allocated to their proper years any entries which may be in the profit and loss account in subsequent years.

Q. The gas company's books in evidence may show a greater or a less profit for 1906 than $4,789,371.26?

A. It might on its face, yes, but not after examination.

19504 Arthur W. Teele, Cross.

Q. But not after you have charged back to the proper year items that you might find in some subsequent years?

A. Quite right.

Mr. Ransom: And as to gas operations?

The Witness: And as to gas operations and other—

Mr. Chambers: Let us find out what he does know about it.

The Master: That is what I was trying to find out, just what it meant, and I could gauge better how much I would allow.

19505

Mr. Chambers: I will just state that I want to ask him with as much detail as I did about 1918 and 1919. I know what the purpose of this exhibit is. I can happily say that I am on to the little matter thoroughly.

The Master: I don't remember this exhibit at all.

The Witness: That is a schedule of property that was put in, I think, when Mr. Alrich was on the stand, if I am not mistaken, and about the same time, the graphic chart was put in.

The Master: Go ahead, Mr. Chambers.

19506

Mr. O'Brien: Your Honor, at this point, I don't want to have the record confusing and have your Honor's mind misled by any statement that may have been made by counsel for some other defendants as to their making up some schedule that might conform in its skeleton with this Exhibit 366. My position here—

Mr. Chambers: That was not what I said. I did not mean to say that. I meant we were going into the years 1906 to 1918, but not following their—any such plan as laid down in Exhibit 366.

Mr. O'Brien: But I want to make it clear that I feel that this absolutely should not have been allowed in evidence, as the witness's statement would only confirm my belief in that regard.

The Master: You have made that statement before, and I ruled against you. What is the use repeating?

Mr. O'Brien: I note an exception to your Honor's ruling in regard to my motion.

Q. Now, the taxes for 1906, what part of the $604,247.63 is taxes as distinguished from interest on taxes? 19508

Mr. Ransom: Objected to as immaterial, not within the scope of cross-examination on anything in this case.

The Master: I think I will have to allow it.

Mr. Ransom: Exception.

A. Taxes, $509,052.55; interest on taxes, $95,195.08.

Q. Now, take the taxes, we will follow that up, as distinguished from the interest on taxes. What taxes are those, what different classes of taxes?

A. Real estate taxes $164,261.70; special franchise taxes, $236,919.78; real estate of corporations $22.18; personal tax $14,674.10; gross earnings tax $50,368.10; privilege to maintain two tracks across East 21st Street between Avenues A and B, which was taxed, $101.09; excess dividend taxes, $42,705.60. 19509

Q. Now, have you given me all the taxes?

A. Yes.

Q. Have you listed the real estate on which the tax was assessed—the pieces?

A. Yes.

Q. Will you please give me those, the different parcels?

19510 Arthur W. Teele, Cross.

Mr. Ransom: Objected to as immaterial. These defendants have had these vouchers, these bills on these things, for months. It is quite outside any issues here, the question of what particular parcels were assessed at the time of the prior suit. This goes back to the time before the trial of the prior suit. If your Honor thinks it is helpful, it is hardly material.

The Master: I do not know that it is helpful, but I am inclined to think that they are entitled to it. That is the trouble with it.

19511 Mr. Ransom: They are certainly not entitled to go outside the issues in this case. Your Honor would not find this rate confiscatory today on the basis of 1906, or 1907, or 1908, or 1909, surely?

Mr. Chambers: Wait until the Master answers that.

The Master: If this did not take so long, I would let it go without hesitation.

Mr. Ransom: It is a matter of weeks. It is being done, that is all.

Mr. O'Brien: If you are going to claim the going value based upon deficits of the years in question, and you presented an exhibit here that

19512 you wanted to have show that, why must it not be cross-examined?

Mr. Chambers: I feel the same way as the Master does. We ought to get up schedules for each year.

Mr. O'Brien: We have here the introduction of the testimony of two dead men. The proposition that you are entitled to some new-fangled idea of going value is not justified by any decisions, never can be supported on any authority.

Mr. Ransom: Except of law.

The Master: This has got to stop.

Mr. O'Brien: I want to finish what I am saying, your Honor.

The Master: I do not want you to. I have not asked you to say anything and there is not anything to say.

Mr. Chambers: I suggest that we take a recess. I have to talk a phase of this over with my associates.

The Master: I will take a recess.

(Recess.)

By the Master:

19514

Q. Mr. Teele, in making up this statement 366, did you and your assistants make memoranda of the adjustments and the calculations upon which this is based?

A. We did.

Q. Are they very voluminous?

A. They are quite voluminous.

Q. Are they in such form that with the assistance of one of your men the defendants' experts can get all of the data which would explain each figure here?

A. Oh, yes, without question, if some accountant will sit down with either myself or Mr. Moran.

Q. What is his name?

19515

A. Mr. Moran—they can go through each and every adjustment we have made there, and trace the original figures, the basis of them, right back to the books.

Q. Of course, that could be done by you right on the witness stand.

A. It would take an awfully long time to do it.

Q. By that you mean how long?

A. Judging from the pace at which we are going and the questions which are asked regarding all items, I would say it would take several weeks.

19516 Arthur W. Teele, Cross.

The Master: All right, I am going to make this ruling, Mr. Chambers, in the light of the witness's testimony—but I shall ask one more question before I make my ruling.

Q. Are you willing to submit all of this original memoranda to the defendants and their representative—some accountant or expert?

A. Certainly.

Q. And give them the assistance of one of your men to explain any item?

A. Certainly.

19517 The Master: I shall rule and will direct Mr. Teele, for the purpose of saving the time of the Court, and at the same time to give the defendants every opportunity to check up in great detail and at their convenience every item on Exhibit 366, that he put all of this data subject to the examination of the defendants and their experts at the gas company's office.

The Witness: I understand, your Honor, that will be with Mr. Moran, or one of our assistants?

The Master: Yes, and that Mr. Teele have one of his men familiar with the data to explain all of this data to the representative of the 19618 defendants. Before the complainant's case is closed I will give counsel for the defendants or any one of them the opportunity to recall Mr. Teele for further cross-examination, at which time I will permit counsel to spread on the record by direct question with reference to any particular paper or item any point which they want to develop for the purposes of this case. Under those circumstances I will not permit any further cross-examination on Exhibit 366 for the time being.

Mr. O'Brien: Your Honor, in reference to this proposition which the Court has made, I make objection to it on the ground that first that the paper should not have been received in evidence, and particularly it is objectionable in the face of the statement made by the witness that he took certain final figures from the books for the years other than 1918 and 1919, and that he did not subject the years prior to 1918 and 1919 to the same anslysis and investigation that he applied to the books of account now in evidence and underlying data for the years 1918 and 1919. 19520
I object to the line of procedure which the Master directs the defendants to take, the meeting with Mr. Teele's attaches, the going over of figures with them, the discussion of the matters with them, who are not witnesses in this case, as in effect throwing upon the defendants a burden of proof that they are not obliged to sustain.

I will state to the Master at this time that the defendant Edward Swann does not consent that the proposition of meeting any representatives of Mr. Teele for the purpose of hearing from these representatives of Mr. Teele where they got some of their figures.

The Master: That is enough, Mr. O'Brien. 19521

Mr. O'Brien: Particularly on papers that are not in evidence.

The Master: The defendant Swann can do just as he pleases about it. The Master's ruling is that there will be no further cross-examination on Exhibit 366 until the defendants have familiarized themselves with the underlying data, so that they can quickly bring out the subject they want to develop. Next question.

Mr. O'Brien: I move, your Honor, that the

Exhibit 366 be stricken from the record, in the face of your Honor's ruling just now made and in the face of the witness's statement made on the stand today that it is not the result of any examination made by him that he has taken the final figures from the books, except that there were certain adjustments made as to taxes and certain other items.

I note an exception to your Honor's ruling, and I emphasize the fact that the procedure is throwing upon the defendants in this case the
19523 burden of proof, of going out and trying to examine these figures and the books of this company and the men that are connected with Mr. Teele—a burden they are not compelled to carry in a rate case.

Mr. Chambers: The other defendants join in Mr. O'Brien's objection and point out that in the first place we have not the men to do the work in that way, and we feel that it shifts the burden to the defendants; also that we do not feel we ought to be obliged in any way to confer out of court or have our accountants confer with the complainant's witnesses out of court, and this
19524 whole matter ought to be produced here as common law proof.

The Master: The Master's ruling will stand. Now, go ahead with the next question.

Mr. Chambers: An exception to all defendants.

Mr. Clark: Exception.

Mr. Chambers: Has counsel Exhibits 367, 368 and 369 in court—the originals?

Mr. Ransom: What are those exhibits?

Mr. Chambers: Retirements and replacements—retirements and additions.

The Master: Yes, they must be there. There is 369, 367 and 368 (handing to Mr. Chambers). Are those all?

Mr. Ransom: There is another there.

The Master: It is 185. That is additions to plant, yes (handing to Mr. Chambers). Those are the four papers that I understood had been handed to counsel—that is, copies of them—several months ago, Mr. Chambers.

By Mr. Chambers:

Q. Have you in your hands Complainant's Exhibit 367, manufacturing plant and equipment withdrawn 19526
from service, January 1, 1906, to December 31, 1918?

A. I have.

Q. Taking the very first page of this exhibit—

Mr. Ransom: The summary page.

Q. (Continued.) Page 3 seems to be the place you begin. The very first item is a well and boiler house burned. Where did you get your figures for that as a withdrawal—from somebody's report of that well and boiler house?

A. The figures appear in the accounts of the company.

Q. In the exact manner in which you set them down there? 19527

A. I think the description is either the same or similar.

Q. From the operating ledger, Mr. Teele?

A. Yes, sir.

Q. What folio, do you know?

A. Page 3 of the ledger for 1907.

Q. Did you examine any records or papers, or did you just take the entries shown on the operating ledger for 1907 at page 3?

A. I examined the papers underlying the entry.

Mr. Ransom: The reference is to voucher 269.

Q. What papers did you examine to ascertain the value of the well and boiler?

A. The journal entry referred to in the ledger account.

Q. It does not refer to any, it refers to a voucher number. You examined the voucher, didn't you?

A. The vouchers are not referred to on the credit side.

Q. Show me what journal entry you referred to.

A. Journal Entry No. 269.

19529 Q. So that is not a voucher then as indicated in the ledger?

A. No, you will find that the later books are marked "Journal Entry" or "Voucher Number."

Q. That would indicate on its face that it was a voucher number. You say it is a journal entry?

A. Yes. That may be a journal entry, I won't say positively whether it is a journal entry number or a journal entry page.

Q. What was the basis of the valuation of the well and the boiler house? How did you ascertain what that valuation was?

A. The record cost to the company.

19530 Q. How did you ascertain that cost?

A. By referring back to the references furnished, to the Rowland appraisal, page 2776 item 39.

By the Master:

Q. This Exhibit 367, under this item, "Well and Boiler House Burned" says "Record page 1428; Record page 1620; Roland page 2776; Item 39." Does that mean that the Court valuation was given at record pages 1428 and 1620, and that the item is identified and valued in the Rowland appraisal at page 2776, item 39?

A. That is right.

Q. And wherever in this statement you refer to a record page, you refer to the record page of some kind in a previous action?

A. The Mayer appraisal.

Q. And wherever you say "Roland," you are talking about the Rowland appraisal?

A. Yes.

Q. And if questions are asked you of the kind that have been asked you by Mr. Chambers, your answer will always be be just as it appears on this paper?

A. Yes, sir.

Q. The next item, "Two Scotch Marine Boilers," 19532
you say, "Items Identified, $4,500," and refer to Ledger 1888, folio 478. That means that you found that item and identified it in the ledger of that year at that folio?

A. It does.

Q. And where you say, "Estimate of Company's Engineer," a little further along, that means that you relied on an estimate placed on it by the company's engineer on an unidentified item?

A. It does.

Q. So that, to cut this examination short, every question asked you along that line will be answered by you by practicably reading what appears on this 19533
exhibit?

A. Yes, sir.

The Master: Go ahead, Mr. Chambers.

By Mr. Chambers:

Q. You used then testimony you found in the previous suit?

The Master: Objection sustained as already answered.

Mr. Chambers: Exception.

Q. And you used the Rowland appraisal for the well and boiler house?

19534 Arthur W. Teele, Cross.

The Master: Objection sustained as already answered.

Mr. Chambers: Exception.

Q. How did you identify that well and boiler as the one spoken of in that testimony?

A. By the description in the entry, the reference to the original appraisal.

Q. Reference to what original appraisal, Rowland's?

A. Yes.

19535 The Master: I suppose as to all of these items your testimony is that where you say you identify them, you were sure that that was the item referred to at the place designated?

The Witness: In the description in the entry, if it was not sufficient to satisfy my own mind in regard to it, I referred to one of the company's engineers for additional information.

Q. Did you have to refer to the company's engineer to identify the well and boiler?

A. I cannot tell you at this time which items I referred to and which I did not.

19536 The Master: The point is that as to many of these items your tabulation is based upon aid given you in identifying items where you have stated that they have been identified?

The Witness: Yes, sir. Most of them can be easily identified, that is, I was satisfied from my examination of the entry, and my examination of the Rowland appraisal, together with the papers attached to the journal entries or underlying journal entries, that it was the property described and referred to; and where I was not satisfied in regard to it I referred to one of the engineers to assist.

Q. Who was that engineer?

A. Mr. Aldrich.

Q. And he did assist you from time to time in identifying them, did he?

A. I have said so.

Q. And you cannot tell me which ones they were?

A. I cannot at this time.

Q. How long ago did you do that? When you made up this paper? I mean how long ago did you confer with Mr. Aldrich about it?

A. Prior to May. I think these schedules were turned over to your representatives in May.

Q. I didn't ask you when you turned them over to us. I asked you when did you confer with Mr. Aldrich? 19538

A. Prior to the printing of this, when it was made up originally.

Q. Why did you add what you said about when it was turned over to us?

A. Because it was so long ago that I did not remember the exact date.

Q. You don't know when they were turned over to us, do you?

A. I was advised by counsel for the company.

Q. Aside from what Mr. Ransom or somebody else told you, you don't know?

A. No. 19539

Mr. Chambers: We received it with a letter from Mr. Ransom on June 23, 1919.

Mr. O'Brien: But we have never received the inventory we have asked for.

Q. Take for instance the well and boiler, how were you able to ascertain that something had not been spent on that well and boiler before it was withdrawn, that had been charged to capital?

A. I relied on the information furnished by the engineers as to property retired.

19540 Arthur W. Teele, Cross.

Q. And you were not able to ascertain whether there might not be some money spent on these pieces of plant withdrawn the well and boiler, that went into capital?

A. This particular piece of property was a piece of property that was appraised, appraised at the figures shown, and that was what was withdrawn.

Q. Something might have been added to that well and boiler subsequent to the appraisal, might it not, that found its way into capital, that is possible?

A. There is nothing indicated in the accounts which
19541 I did examine, of addition to property since 1906, that anything was so added.

Q. This Rowland appraisal that you say was made in 1884, how about the period of time between 1884 and 1906, as to whether there had been some money spent on that well and boiler that found its way into capital?

A. I did not examine the property account from 1884 to 1906.

Q. So, you cannot say whether there was any money spent on any of these pieces of property between that period of time, that found its way into capital?

19542 A. I don't know what the expenditure for capital purposes was between 1884 and December 31, 1905, other than that indicated by the accounts of the company.

Q. Is that true of all the plants withdrawn here, set forth on this exhibit?

A. Is what true?

Q. Is that same statement true as to all these pieces of property—

The Master: That run back of 1905.

Q. I want to ask you the question—what you have

just told me in regard to not knowing as to money spent that found its way into capital between 1884 and 1906, is that true of these various other pieces of property withdrawn?

A. Except where I traced the pieces of property withdrawn back to their original records, and if I traced them back to the Rowland record I have so stated. If I traced them back to an account in the ledger which showed that an expenditure had been made subsequent to 1884 down to December 31, 1905, or later, I have so indicated. As to other expenditures which the company may have made for capital pur- 19544
poses I do not know.

Q. Then it is true as to all pieces of property where you used the Rowland report as a basis, that you do not know what was capital, is that true?

A. I don't understand that question.

Q. Is it true, what you stated a moment ago, as to all pieces of property where you used the Rowland report as the book value, that you don't know whether any expenditures were made as to those pieces of property that found their way into capital, between 1884 and 1906?

A. Your question is rather misleading.

Q. I can make it clear if it is not clear to you. I 19545
think you have already stated it, but I wanted it clear and unequivocal. Will the stenographer please read it?

(Question read by stenographer.)

A. The amount at which the property is withdrawn is the amount at which the record shows in the books.

The Master: Take on page 7, Mr. Teele, down at the bottom of the page, I see, "Building A, southeast corner 22nd Street and First Avenue, demolished; record page 1475; $56,320." What does that mean?

19546 Arthur W. Teele, Cross.

A. That means that that property was appraised by Mr. Mayer at $56,320.

Q. Will you take Exhibit 185, Mr. Teele.

Mr. Chambers: I would like to state on the record, and the Master I think will bear me out, he has examined the exhibit, that the copy of Exhibit 367 which I acknowledge as having been received by the defendant Newton is not the same as Exhibit 367 which is in evidence.

The Master: That seems to be the fact.

Mr. Chambers: And that Exhibit 367 has a
19547 third column which is not on the schedule which has been furnished to the Attorney General.

Mr. Ransom: The column containing the Mayer valuation is apparently not on the copy which the Attorney General has.

The Master: Oh, yes, it is.

Mr. Ransom: The differentiation between items identified and not identified.

The Master: Yes, but that is not the important thing. The important thing about it is that items 1, 2 and 3 on the third page of Exhibit 367 correspond with the first item on page 3 of Mr. Chambers' copy of Exhibit 367, the next item
19548 appearing on Mr. Chambers' copy of 367 is the last item on my page 3, referring to "Old fence around storage yard." Now, it may be that the items in between the "Coal handling apparatus" and "Old fence around storage yard" appearing on my page 3 appear on Mr. Chambers' copy, but that paper that he has is not a copy of this, so far as this page 1 is concerned. Before Mr. Chambers proceeds with this cross-examination, he is entitled to an accurate copy of that exhibit.

Mr. Ransom: We will produce it.

Q. Now, you have before you, Mr. Teele, Exhibit 185?

A. Yes, sir.

Q. The first item, the one in parenthesis, is intended, is it, to relate entirely to the boiler house and contents at 15th Street?

A. Yes.

Q. And the others are subheads of that "Boiler house and contents?"

A. Subheads of that account.

A. When was that dated, what year? You do not give the year here? 19550

The Master: He does, 1906, foundation.

Q. Where it says "Foundation, 1906, ledger—" that is the ledger folio, is it?

A. Yes, the abbreviated words "Led. Fol." are abbreviations for "Ledger folio."

Q. That will be 743 of the operating ledger for 1906, wouldn't it?

A. 1906, the account will be found on 743, 769 and 814.

Q. On three different pages?

A. Three different pages. The account concludes on 814 in that ledger.

The Master: Every item in this exhibit apparently is taken from the ledger? 19551

The Witness: It is.

The Master: You have relied on the ledger entry?

The Witness: And referenced.

The Master: And the voucher supporting the ledger?

The Witness: And the vouchers supporting the ledger entries.

The Master: These are all vouchers, are they, or pay rolls?

19552 Arthur W. Teele, Cross.

Th Witness: Vouchers and pay rolls.

The Master: Supporting these ledger entries?

The Witness: Supporting these ledger accounts. These items are total for the year.

The Master: Yes.

The Witness: There may be many items making up this amount.

The Master: In different years?

The Witness: As, witness, that first one, it runs over three ledger pages.

The Master: In that year?

19553 The Witness: In that year.

The Master: You may have something added to it in some other years.

The Witness: Have something added to it the next year as shown. The next year's ledger on folio 190, a further expenditure of $958.15, and we have attempted to show here by projects the expenditures in the various years so that they could be traced right through.

Q. Now, turning to page 743, "Boiler House and Contents," you used the figures, did you, which you found as a summary here for "Foundations," the same as you have in the exhibit?

19554 Mr. Ransom: I object to the question.

The Master: I will allow it.

A. It is not a summary. It is the total of the account: the account runs through three ledger pages.

Q. It is headed, "Boiler House and Contents East 15th Street?"

A. Under the supheading, "Foundation." These columns—

The Master: May the record show that there are various columns or sub-divisions under that general title, "Boiler House and Contents," and one of them is "Foundations."

Q. Just to take that one, the foundations, did you examine any of the underlying data?

A. I did.

Q. That go into the cost of that foundation?

A. I examined the principal vouchers in that expenditures.

Q. That we find here, this is the expenditure?

A. Yes.

Q. Did you go back of the vouchers here?

A. I did not.

Q. Did you do that for each one of these items, like, "Building," or "Boiler?" 19556

A. I did that for all of the expenditures shown in this "Additions to Plant, Manufacturing Plant and Equipment."

Q. You did not make any change in this Boiler House and Contents than what you found in the book?

A. I did not.

Q. How did you know that that Boiler House and Contents had not been withdrawn from the service, how did you know that, how did you ascertain that. You have it as still being used. Is it used now, did you ascertain?

The Master: I don't understand his schedule 19557
to represent that it is still being used.

Mr. Chambers: Oh yes, it is plant now in existence.

The Master: It may be set out in some other schedule as plant withdrawn, isn't that so, Mr. Teele?

The Witness: It might be.

The Master: Some of the very things that you

19558 Arthur W. Teele, Cross.

put in here as having been added might appear in another schedule as withdrawn?

The Witness: The schedule is made up showing additions to plant accounts, and on the other side are the withdrawals.

Mr. Chambers: That is so.

The Witness: It is set up in this way so that it could easily be checked with the accounts.

Mr. Chambers: We did not expect to take up this one here in this way, and to do it intelligently we ought to have a little time.

19559 The Master: Oh yes, you must have expected it four months ago. I will have to ask you to go ahead.

Mr. Chambers: Oh, I did not mean—I meant just time enough to see what items we want to ask about. I was prepared to go on with the other one.

The Master: I will ask you to go ahead. There cannot be any cross-examination of any use in these things. These are simply, he says, copies of the books.

Mr. Ransom: And vouchers.

The Master: Well, they are practically copies 19560 of the books.

Mr. O'Brien: Judge Ransom brought in the word "vouchers" after the witness had testified to books.

Mr. Ransom: The witness did not testify correctly.

The Witness: I testified two or three times before in regard to this very expenditure.

Mr. Ransom: Several months ago.

Q. Take the item of "Building." It is "Building" in the ledger singular, and you have it "Buildings."

Does that schedule cover anything different from that stated in the Operating Ledger at 743?

A. It does not.

Q. You have "Building." Is it one building?

A. It may be a typographical error.

The Master: You don't know whether it is one building or several?

The Witness: No.

Q. Well, do you know what building it is, or anything about it?

A. Other than that disclosed by the original papers underlying the entries in the ledger. 19562

Q. You don't know?

A. Other than that disclosed by the papers, I don't know.

Q. I mean, if you should go up and look at it you would not know what building it was?

A. I would not.

Q. Now, the boilers. Do you know what make, what type they were?

The Master: I will sustain the objection. The Witness is not called to prove the propriety of the expenditure. He is simply called to prove that the books show certain expenditures for certain things. 19563

Mr. Ransom: The boiler house and contents.

Q. Now, from this description here as contained in your exhibit and the operating ledger you could not check it up to ascertain whether it was there or not, could you, at least all of it you could not tell, could you?

A. If I undertook to check this physical property described I would go back to the original papers and see what descriptions the engineers used upon the original papers. That might enable me to check up the physical property.

Q. Now, your stack, and you have it—it looks like "Stack and"—

A. (Interrupting.) Breeching.

Q. It should be B-r-e-e-c-h-i-n-g, shouldn't it?

A. Yes.

Q. Now, take the item "Superintendence," did you ascertain what that covered, that superintendence?

A. It is the charges from the pay roll.

Q. You don't know what entered into it, do you?

A. No, I would not say what entered into that without an examination of the pay rolls.

19565 Q. Do you know what the "Miscellaneous" covered?

A. The vouchers referred to in the ledger account and miscellaneous column will show exactly what the expenditure is for. I cannot at this time remember what it is for.

Q. Now, we find a column here on page 743 that we do not see in your schedule. "Boiler House at January 1, 1906." Is that set up in your schedule? What is that expenditure made under January 1, 1906?

A. Just what it says.

Q. What did you do with it?

19566 A. It says, "Boiler House at January 1, 1906."

Q. Well, I read that a minute ago. What did you do with that?

A. These schedules cover expenditures only after December 31, 1905.

The Master: You disregarded that item?

The Witness: Surely, it is a balance brought forward.

The Master: Why don't you say so?

Q. Do you mean that that was an expenditure made before December 31, 1905?

Mr. Ransom: Objection.

The Master: Objection sustained. That is what he says.

Mr. Chambers: No.

The Master: He says, "Expenditures after January 1."

Mr. Chambers: No.

The Master: What did he say?

Mr. Chambers: It says, "Boiler House at January 1, 1906."

The Master: Well, it is perfectly clear to me that that is the balance at that date.

Q. You don't know what any of these cover any more than is disclosed, as to any of these items, in the ledger and the journal and vouchers? 19568

A. I said I did know through my examination of the vouchers referred to in the entries in the ledger accounts, and I cannot at this time, after having examined thousands of vouchers, tell you what those items mean, other than the general description given at the heads of the column.

Q. Would you know in any case what class of work was covered by superintendence, who the men were that rendered service for the superintendence as charged?

The Master: Objection sustained upon the ground the witness has already stated he would have to go back to the pay roll to get the payments, and that he cannot tell now. 19569

Q. Well, possibly—could you tell generally what class of work was included in superintendence?

A. Generally in regard to this particular piece of construction?

Mr. Ransom: I object to the question.

The Master: I will allow it.

A. I will not make a general statement in regard to any special piece of construction. Superintendence, or-

19570 dinarily, would include the services of such employees of the company as were engaged in directing the construction work in progress.

The Master: Would it include foremen?

The Witness: No, not foremen.

The Master: Would it include an engineer assigned as superintendent?

The Witness: An assistant engineer generally, is my recollection.

Q. Does it include, with this company, that kind or class of work generally, did you find out it did?

Mr. Ransom: I object to it.

19571 The Master: I will let the witness say if he remembers.

The Witness: I do not remember definitely.

The Master: I always thought that the purpose of getting these exhibits into the hands of counsel three or four months ago was that they might look into these things and then call attention on cross-examination to matters that they felt ought to be spread upon the record.

Mr. Chambers: The Master has not tried a rate case before.

The Master: I don't know that I ever want to again, if this is the way they are tried.

19572 Q. On page 7, the middle of the page, where it says, "Conveyor and Drying Furnace, Excavations and Foundations," you have 1908, ledger folio 40. That should be 1918, shouldn't it?

A. It is 1918, and it should be 1908.

Q. It is 1908, here on ours?

A. Which one, which item? What is the amount of the item?

Q. $134.79?

A. That should be 1908.

Q. Well, then, the next one should be 1908, or?

A. Yes.

The Master: What is that?

The Witness: A typographical error in the second item. It is conveyor and drying furnace.

The Master: I do not see any page 7 here. It does not appear at all. What is the item we have been talking about?

Mr. Chambers: Conveyor and drying furnace.

The Master: Yes.

Mr. Chambers: Excavations and foundations, where that appears the second time it should be 1908, the amount is $793.12. 19574

The Master: Yes.

Q. Page 11, that will be after the blue paper or blue sheet inserted somewhere. It is in the 18th Street station, if the Master can find it. It is at folio 6. What station is that, East 18th Street or West 18th Street station, that you have in mind there?

The Master: I have it.

A. It says the 18th Street station.

The Master: Have you got the 1906 ledger there? Look at folio 6 and let us see.

Mr. Ransom: There never has been but one 18th Street station.

Q. Did you know, Mr. Teele, which it was? 19575

A. I had never known but one 18th Street station.

Q. And that was where, West 18th Street?

A. West 18th Street.

Q. Then you must have had that station in mind.

The Master: This witness did not have any station in mind. He had in mind whatever was shown on that book—items charged to the 18th Street station.

Mr. Ransom: "18th Street station" was one of the recognized headings.

19576 Arthur W. Teele, Cross.

The Master: What item is that?

Mr. Chambers: New toilet.

The Master: And exhauster house?

Mr. Chambers: Yes.

The Master: Page 54. Is there anything about this item, Mr. Chambers, you wish to direct his attention to?

Mr. Chambers: I want to know which 18th Street station it is.

The Master: Objection sustained, if that is your question.

19577 Mr. Chambers: We cannot tell whether the 18th Street was withdrawn or not, and I never will know, I suppose.

Q. Take page 19, high pressure alarm apparatus in new purifying house. You have 1906 ledger. Should not that be 1909?

A. It should be 1909. You are referring to the item of $39.94?

The Master: You men do make mistakes, then, do you? I believe that all of these typographical errors were gone over with Mr. Frank or one of the assistants there and the corrections made in one of the copies they were working on.

19578 Q. I want to see if we have what you know clearly about this. On page 24 there is an item of miscellaneous at the 21st Street station. You have not any knowledge as to what that includes, have you, any more than you had to these other items?

A. You are referring to what?

Q. Miscellaneous, $120.13.

A. None other than what the entries referred to in the ledger account will disclose.

The Master: And if it does not disclose anything you do not know anything about it?

The Witness: No.

Q. On page 25, about the middle of the page, you have got "Stock." It should be "stack," should it not—boiler house stack?

A. Without looking, I should say yes.

The Master: Are you ready to give me that insurance information yet?

The Witness: I have not looked at it yet, your Honor.

The Master: Would you rather do it tomorrow?

The Witness: I would rather do it tomorrow. I will look at it tonight and take it up with you to- 19580
morrow.

Q. Will you turn to page 73, Mr. Teele?

The Master: Have you got it there?

The Witness: Yes.

The Master: What is it you want to know about page 73, Mr. Chambers?

Q. Can you explain why such items as alterations to the present conveyor should be charged to an addition rather than repairs?

A. An alteration is hardly a repair.

Q. What is that?

A. An alteration is not a repair.

Q. Do you say that generally speaking? 19581

A. I say that generally speaking.

Q. You had here a conveyor. Did you know what alterations were made to it?

A. I do not now recall what alterations were made to it.

The Master: Did you know?

Q. How do you know that they were not repairs so as to go under the heading "Repairs"?

A. This particular alteration I took up with Mr. Aldrich and discussed with him the work that was done at that point.

Q. What did he tell you was done to the conveyor?

A. I do not now recall the details of what he said in regard to it, but my understanding is that there was a complete change in the—

Q. I did not ask for your understanding and move to strike it out.

The Master: There is no use striking it out. It does not mean anything, that is all.

Q. You procured some information from Mr. Aldrich?

A. I discussed the matter with Mr. Aldrich and, as
19583 I testified before, I relied upon the endorsement by the engineers as to the purpose of the expenditure and what it was for.

Q. So you did not use your independent judgment about it, did you, or who made the determination whether it was repairs or capital investment, you or Aldrich?

A. I followed the endorsements by the company's engineer, after discussing the situation with him.

By the Master:

Q. You made no change, as you said before?

A. I made no change.

Q. When you found it was an addition to plant,
19584 you let it stay there?

A. I would not have let it stay there if I felt it was otherwise.

Q. But there was no instance that you recall where you changed it?

A. No, I did not.

By Mr. Chambers:

Q. 69, the item of moving scale platform and gate, which was charged to capital expenditure, $710.01. What information did you have on which you made the determination of whether that was a capital investment or repair?

The Master: How much?

Mr. Chambers: $710.01.

A. The same answer as before.

Q. Did you consult Aldrich?

The Master: It would not make any difference whether he did or not. He took the endorsement of the engineers.

Mr. Chambers: Then your Honor will not make any finding that this is capital investment?

The Master: That particular item?

Mr Chambers: I am only picking out a few.

The Master: You pick out those that you 19586
question and I will dispose of them when I get to them.

Q. I ask did you consult Aldrich about putting that platform and gate—

The Master: My disposition is going to be, Mr. Chambers, to eliminate every doubtful item.

Mr. Ransom: For the purposes of this determination?

The Master: Yes.

Mr. Chambers: I have to go back, because I mentioned two or three that are in the case, but it is not plastered full of them.

The Master: That is what you are here for, 19587
to point out items you want me to disregard.

Mr. Ransom: By eliminating them, your Honor, does not mean that you will throw them out absolutely, but you will consider them?

The Master: What I mean is this: I want to reach a conclusion surely, if it is in favor of the Gas Company, by eliminating every doubtful point.

Mr. Ransom: But considering it.

The Master: Yes. I get your point.

Mr. O'Brien: Like the Supreme Court did.

19588 Arthur W. Teele, Cross.

They said assuming for the purposes of this decision that the plants were fifty-five million, they did not hold that it was, they said we will assume it, and then put them out of court.

The Master: Yes.

Mr. O'Brien: You mean it in the same way?

The Master: I mean it in the same way, yes.

Mr. Ransom: The property would be worth so much?

The Master: What I am getting at is this: There will be a number of items which the de-

19589 fendants will question, as to their propriety, in one form or other. Take the $10,000 item for defensive emergency service and the item for grade expense.

Mr. O'Brien: And the six million for transferred gas.

The Master: If I reach the conclusion without taking those items in at all that you have sustained your cause of action, I am going to say that. If I find that you can only maintain your cause of action by taking in doubtful items you have a pretty weak case.

Mr. Ransom: As to the proper accounts, for

19590 example, there are elements of property which we are entitled to have taken into consideration if your Honor is here fixing a rate for the future.

The Master: If I reach the conclusion that the Gas Company is right in its general allegation that this rate is confiscatory, I am doing the Gas Company a service by announcing in reaching my decision I have not figured any doubtful items. If I have got to figure any doubtful items, or items that seem doubtful to me, you are on pretty thin ice.

Mr. Ransom: We do not need any of these

doubtful items for the purpose of this determination, as we see it. At the same time we do not want an adverse determination which would become *res adjudicata*.

The Master: I will take care of that.

Mr. O'Brien: He is thinking of the next rate case before he has started this one, your Honor.

The Master: I do not blame him. Because I have no power to fix any rate. He may have an entirely different case after I get through with it—trying to get the Public Service Commission or some other authority to authorize a particular 19592
rate.

Mr. O'Brien: He does not want you to fix the base.

The Master: I am not going to unless it becomes necessary. I am not going to decide a single thing in this case that is not absolutely necessary for the decision of the case.

Mr. O'Brien: The very man that we might expect to tell us how much it cost to make gas, they do not bring him out, except a man of straw, to justify their expenditures.

The Master: If I did not hear any evidence to the contrary, I tell you now, I should settle 19593
the fact on the basis of Mr. Woods' testimony.

By Mr. Chambers:

Q. Take this item "Fence around the Coal Storage Yard at 111th Street," page 79. What part of the fence was that, were you able to tell?

The Master: What page?

Mr. Chambers: Page 79.

A. No.

Q. Could anybody tell?

Mr. Ransom: I object to the question.

Q. How could anybody tell?

A. Did you ask if I could tell?

19504 Arthur W. Teele, Cross.

Q. Yes.

A. You asked me three questions, Mr. Chambers. Which one do you want me to answer?

Q. How could you tell?

The Master: How could it be identified when it came to withdrawing it?

The Witness: The man who had charge of the destruction or demolition of the property knows how such property is destroyed or built.

The Master: How can it be identified on the books or records of the company?

19505 The Witness: As to the withdrawal of it?

Mr. Chambers: That is just the trouble, we do not know what is withdrawn.

The Master: As compared with what is subsequently withdrawn.

The Witness: If this fence was subsequently withdrawn it would be withdrawn on the certificates of the engineers who had to do with the construction of it, who had the records of the construction in the company's files, and who would know the physical property.

The Master: And if it could not be identified they would make an estimate of it?

19506 The Witness: They would make an estimate of it.

Q. Suppose the engineer forgot to send in the withdrawal of it?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. The toilet in the street department, how did you check that up if it was not withdrawn?

The Master: Objection sustained.

Q. Page 80, take the item of "Services of Inspectors, Company's Labor, Removing Old and Erecting New Fence and Gates, and Expense of Building dur-

ing Construction.' Who did you ask, or what did you do in order to ascertain whether that was an expense for capital or repairs?

The Master: Objection sustained.

Mr. Chambers: Exception.

The Master: I rather anticipate your other questions will be on the same line and I am sustaining objections to them.

Mr. Chambers: Your Honor will not allow me to ask how he determined as between the capital expense and repairs?

The Master: No. 19598

Mr. Chambers: I will ask another one anyway and get a ruling.

Q. On page 85 you find an item "Rearranging and Extending Street Mains." I ask you how you determine or what was the basis of your determination that that was a capital expenditure as distinguished from a repair?

The Master: Objection sustained.

Mr. Chambers: Exception. Your Honor will not permit any questions of like character?

The Master: No.

Adjourned to Tuesday, November 18, 1919, at 9:15 A. M. 19599

Last Complainant's Exhibit No. 375.
Last Defendants' Exhibit AA-12.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 19603

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 18, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 19604
MR. O'BRIEN, of Counsel for defendant Swann.

ARTHUR W. TEELE, resumes the stand.

CROSS-EXAMINATION BY MR. CHAMBERS, CONTINUED:

Mr. Chambers: First of all, I think the original of Exhibit 185 ought to be numbered, ought to be paged, the same as the copies furnished to the 19605
defendants, because I am asking about page numbers, and it will be confusing on the record, I fear.

The Master: It will all be changed in the record when it is printed. You will not be able to identify it by pages anyway.

Mr. Chambers: I mean the pages of the exhibit.

The Master: You would not be able to identify it in the printed record by the page of the exhibit.

19606 Arthur W. Teele, Cross.

Mr. Chambers: I don't see why. I am asking about page 87 of the exhibit.

The Master: But it will not be printed by pages. There will not be any trouble, it can be located.

Q. Mr. Teele, on this Exhibit 185, you have, "Construction, East 132nd Street Testing Station." Have you that, $7,450?

A. Yes.

Q. Now, you procured your information for that addition from the 1916 Operating Ledger, page 60, and supporting vouchers, I take it, because I find
19607 that same amount there?

A. Yes.

Q. Where did you get your statement here that the value is per estimate of the engineer of construction of the building formerly located on 132nd Street, etc., as stated here?

A. I believe that is a quotation from the voucher.

Q. Do you know?

A. It is either a quotation from the voucher or a quotation from a letter attached to the voucher and filed in connection with it.

Q. Have you no way of telling?

A. Only by referring to the original papers them-
19608 selves, which I did at the time I set this out.

Q. You would have to go and look at the voucher mentioned here?

A. Yes, sir.

Q. If that was not on there, you would conclude you got it from some letter?

A. From the underlying papers supporting the voucher.

Q. Where can we find it if it was not on the vouchers?

A. It may be papers in connection with the voucher in the engineering files.

Q. Can you give us any more definite information than that about it?

A. Not without going back to the original papers themselves, I cannot.

Q. That says, "Building remodeled for use as a gas testing station and watchman's quarters." Now, that appears on its face to be the remodeling of a testing station?

A. It does not say so.

Q. It says, "Building remodeled for use as a gas testing station"?

A. It says for the value of the building purchased: 19610
I don't know what it was before.

Q. What was it for, the value of the building or was it a building remodeled for use as a gas testing station, do you know?

A. Just what it says.

Q. You have both. Which was it?

A. For the value of the building formerly located on 132nd Street, south side, formerly used as an emergency hospital—if you want me to read the sentence.

Q. Why is that "Building remodeled for use as a gas testing station" tucked on there, if the money was not spent for that?

Mr. Ransom: I object to the question, the paper 19611
speaks for itself.

The Master: If Mr. Chambers does not understand it I will let the witness answer.

Mr. Ransom: It was used as an emergency hospital, and they have changed it to a gas testing station.

Q. Was the expenditure for the value of the building only and not for remodeling the gas testing station?

A. The vouchers so read.

19612 Arthur W. Teele, Cross.

Q. That it was for the building only?

A. For the purchase of the building.

Q. Then what is that last sentence for? Does that have anything to do with the expenditure?

A. The last sentence on that statement is explanatory of what the building was, in order to identify it, I assume.

Q. Did you look up to ascertain if this building was used as an emergency hospital during the construction of the Astoria tunnel?

A. I did not.

19613 Q. Do you know whether that building is now used as a gas testing station?

A. I do not.

Q. Do you know whether it is on 132nd Street, north side?

A. I have never been at that point.

The Master: You don't know?

The Witness: I don't know.

Q. Do you know whether it is used as a watchman's quarters?

A. No.

Mr. Ransom: This has all been covered by other testimony. The witness has not been called

19614 to testify as to that.

The Master: I could see that the questions were useless, the witness doesn't know anything about it.

Mr. Ransom: They are worse than useless.

Mr. Chambers: You may hear a whole lot on that line before you are through; they are not useless.

The Master: The trouble, Mr. Chambers, is that you are thinking of one thing and I of another. It is not useless for you to raise the point,

but my point is that it is useless to ask this witness, because he doesn't know anything about it.

Mr. Chambers: Your Honor permitted it in as, "Additions to Manufacturing Plant."

The Master: Only a statement from the books.

Mr. Chambers: Now we find that the books do not show, that he secured his information from a letter or some underlying data, he could not tell us what.

The Master: I did not say those questions were useless.

Mr. Chambers: I want to find out all I can 19616
about it so we can defend the case. Your Honor has not the defense of the action. We represent half a million people here. We think they have no cause of action, we are satisfied of it, and we have to proceed carefully and see if we cannot demonstrate that that is the truth, because we are certain that is the truth. We cannot allow anything to escape, because we feel an injustice is being done here.

Mr. Ransom: Being unwilling to face the facts all they will do is to kill time.

Mr. Chambers: Half a million people of this city are entitled to their day in court, and so long 19617
as I am able to stand up here they shall have it, regardless of these uncalled for insinuations of counsel.

Mr. Ransom: They are not insinuations; they are direct statements.

The Master: Why keep that up, Judge Ransom? I thought you had stopped it without my calling attention to it.

Q. Take the Inwood Station information that you have here on this Exhibit 185, page 88, that part which is set forth after (1), "Additional Valve

House Connections." What information did you have before you to determine that that additional valve house connection was a capital investment as distinguished from a repair?

The Master: Objection sustained upon the ground that the witness has repeatedly stated that he took the statement of the engineers in every instance for that information.

Mr. Chambers: Well, he said sometimes—

The Master: He said he looked at the vouchers, and that he felt satisfied that every one of them
19619 was right, and I have told you time and again that I do not care about his judgment.

Mr. Chambers: I have looked at the record, and I cannot see how I can escape asking him questions about each item, in view of his indefinite statement.

The Master: I will sustain the objection upon the ground stated.

Mr. Chambers: Exception.

Q. Have you treated the Inwood Station as withdrawn from service, and as of what date?

Mr. Ransom: Objected to.

The Master: Objection sustained.

19620 Mr. Chambers: Exception.

The Master: Only on the ground that for the order of proof I am holding you to this particular exhibit, and not to get away to something else.

Q. The Inwood Station has been virtually withdrawn from use, has it not?

The Master: Objection sustained upon the ground that I am holding you to cross-examination on this exhibit at this time.

Mr. Chambers: I think that question relates to this exhibit.

The Master: I don't think so.

Mr. Chambers: Exception.

Q. Take page 51, Mr. Teele, of Exhibit 185 under the heading, "44th Street Station," that is, the preceding page headed, "44th Street Station"—now, I call your attention to the information on this exhibit under (4), "Book Value of Blower Transferred from 21st Street Station." Did you generally in this exhibit include in capital investment pieces of plant that had been transferred from one station to another?

A. I did where the same items were included as a withdrawal on the other side. 19622

Q. As a withdrawal on what side? You mean that that is shown as a withdrawal under your, "Withdrawal of Plant"?

A. Yes, if they are included as an addition on this schedule they are included as a withdrawal on the other side.

Q. You have not done it in any other instance?

A. I did not say so.

Q. I am asking you, except where it was withdrawn did you ever include it as capital investment?

A. Property transferred from one point to another?

Q. Yes.

A. No. 19623

Q. Now, page 56, we find again under (1), "Cost of Installation Transferred to Boilers," just above is the item $6,162.76. Now, you make the same answer to that that you made to the other, that it is withdrawn on the one side?

A. It is my recollection that we did not include any property that was transferred as an addition to property without its being taken out on the other side.

Q. Were you looking at your withdrawals now?

A. I was looking at my withdrawal schedule to see if I could readily identify it.

Q. Could you?

A. I cannot readily identify it in this schedule. That does not make me change my answer to your question, however.

Q. That is, in your schedule of withdrawals you cannot find those two items?

A. I cannot.

Mr. Ransom: This is a matter of cost of installation transferred to boilers; it is not the boilers themselves.

Mr. Chambers: Is counsel testifying again
19625 this morning?

Mr. Ransom: Counsel is trying to indicate the unfairness of the questions.

Mr. Chambers: You have been showing unfairness all the way through, and probably will to the end, but it will not do you any good. This case is going to be tried so that the defendants will be protected. Take notice of that, if you please. As long as I have the health I will stay right here and protect the half a million. You are representing one octopus, while we are representing a half a million people, and they are entitled to our best effort. Counsel keeps saying we are ask-
19626 ing foolish questions.

The Master: Do not pay any attention to him.

Mr. Chambers: I am not, except that I want the record to show we are trying our best to honestly represent these people.

The Master: You do not have to tell Judge Ransom that.

Mr. Chambers: He seems to be a little thick on some points—dense.

The Witness: That does not include any

charge for the boilers so transferred. It is cost of installation. That is evidenced by the vouchers and entries referred to in the ledger account.

Q. You are now referring to page 11?

A. 1907 ledger, folio 11.

Q. Which is Exhibit 261?

A. Construction, 65th Street station, and heading, "Installation of two New Boilers Nos. 15 and 16."

Q. You conclude that those two boilers are the same two that were transferred. Does it say, "Two New Boilers" there? 19628

A. It says "Two New Boilers, Nos. 15 and 16."

Q. So you identify those two new boilers as the boilers that were transferred?

A. The construction referred to in that schedule, $6,162.76, is the construction set forth in this entry in this ledger account, the total of which is shown on folio 11.

By the Master:

Q. That seems perfectly clear to me, and what you have just said undoubtedly refers to the item of $6,162.76, "Installation of Two New Boilers, Nos. 15 and 16." But what does this mean: "For cost of installation, transfer of two boilers from 14th Street station"? 19629

A. Evidently the two boilers at 14th Street, which they were not using.

Q. This $6,162.76 item refers to that?

A. The $6,162.76, as shown by this ledger account, covers the cost of transferring and installation of those boilers at the 65th Street station.

Q. Don't they keep a withdrawal account with reference to each station?

A. In this case they did not transfer the boilers;

that is, they did not put the entries through taking them out of the 14th Street station.

Q. The 14th Street station property account, then, is inaccurate; it shows two boilers that are not there?

A. That is quite true. That does not have anything to do with the expenditure.

Q. That may be, but you have got two boilers in 14th Street that have been withdrawn and you have two boilers added here that probably are not included in the property account here. I do not see how they can keep their insurance right if they do that.

19631 Mr. Ransom: The insurance undoubtedly is kept right.

The Master: I do not see how it can be, if you have not got in your property account of the other station these two boilers.

Mr. Ransom: I think you will find it is right when you come to look at it.

The Master: It is not especially important in this case, however, as to the capital account.

The Witness: The withdrawal is made at 14th Street (indicating paper).

Q. The other is the 65th Street station?

A. The 65th Street station.

19632 The Master: The witness calls attention to page 3 on Exhibit 367, the item "Two Scotch Marine Boilers transferred to 65th Street station."

Mr. Ransom: With the ledger folio?

The Master: Ledger 1888, folio 1478.

The Witness: For original cost.

The Master: This is 14th Street station, transferred to 65th Street station.

By Mr. Chambers:

Q. I want to ask you if these costs that you have

just mentioned on this exhibit, of $4,500, include the cost of the boilers or the setting too?

A. The $4,500?

Q. Yes.

A. Without referring to the original record I can not say whether it includes the cost of setting or not. The original cost is in the ledger for 1888, on folio 1478.

Q. Just go back to the item of "Book Value of Blower Transferred to 21st Street station," on page 51. Can you show me where that is withdrawn in your withdrawals, just to illustrate to the Court? 19634

A. I do not find it set out in the schedule of withdrawals.

Q. You say you do not?

A. I do not. I would like to refer to the original entries, if I may.

Q. I beg your pardon?

A. I would like to refer to the original entries, if I may.

Q. Yes, all right.

A. Mr. Moeran, will you give me the 1909 ledger, folio 11? (Book produced.) Have we the journal here for that year?

Mr. Ransom: No, there is no 1909 journal. 19635

The Witness: The journal is not here, your Honor, to which the entry in this ledger account refers, so that I can not say where the item is on the other side. I am positive from our analysis that it has been dealt with. Well, it is before me, it so happens. On this same ledger page under the 21st Street station account appears the credit of construction, 44th Street blower, $765.53.

Q. You are speaking now from Exhibit 263?

A. I am speaking from the ledger page which is before me, Exhibit 263.

19636 Arthur W. Teele, Cross.

Q. Where is that withdrawal in your Exhibit 367? You pointed out this amount in the ledger, where is it now in Exhibit 367?

A. I do not find it included here, Mr. Chambers. I am still sure that it has been dealt with.

Mr. Chambers: I move to strike out that last.

The Master: I will let it stand. I do not believe in striking out.

Q. Look at page 69 of this Exhibit 185, Mr. Teele?

A. Page 69?

Q. Page 69. It is under the 99th Street station,
19637 just at the end. It is No. 23 in parenthesis. I call your attention to the statement there of one locomotive train transferred from Astoria Light, Heat & Power Company, to 99th Street station, track and rails, ties, plates, bolts, braces, etc., locomotive crane boiler, $8,616.78. Does that amount cover the cost of the property as you ascertained it, including the expense of transfer of the apparatus?

A. It covers all expenditures as shown by the vouchers and papers referred to in the ledger accounts, referred to in this schedule.

Q. Were these items entered in the ledger at the time of the transfer or some time later? I see some
19638 of it is in 1914 and some of it in 1916?

A. I do not know when they were entered in the ledger. They appear in the ledger at the present time under the dates as shown in this schedule.

Q. Do you know whether those are the dates of the actual transfer, that are given there on that page under "23"—that is, was the locomotive train transferred in 1914, and were the rails, ties, and plates transferred in 1916, do you know?

A. Only from the information contained in the papers and entries supporting the entries in the ledger

accounts and certified to by the engineers of the company.

Q. Did you examine anything in addition, any data or entries in addition to what is shown in the operating ledger for 1914 and the operating ledger for 1916, and the vouchers there mentioned?

Mr. Ransom: Objected to. That has been gone over.

The Master: I will let him answer it again.

Mr. Chambers: He has not gone over that.

Mr. Ransom: That question has been answered twenty times. 19640

The Master: Answer it again, Mr. Teele.

A. No.

Q. Then if it does not show there, why, you did not have the information?

Mr. Ransom: It does show there.

A. It does show there.

Q. It shows when they were transferred, you mean the date—it does show the date.

A. It gives the record in regard to the transactions, entered in the ledger.

Q. It shows, does it, the date of the actual transfer?

A. The vouchers themselves will speak for themselves. I do not know at this time. 19641

Q. Will they show the date?

A. Whether they say it was transferred partly on Thursday or partly on Friday or not—

Q. Will they show the year?

A. They will show the year and the month in which the transaction is recorded.

Q. I did not ask you that. I want to know if it shows when the locomotive was transferred, as distinguished from the entry or recording?

A. I can not give you any better answer than I have.

Q. You do not know whether it does show it or not, do you?

A. It shows the record of the transaction, giving the year and the month, and certified to by the company's engineers.

Q. But you do not know whether the record shows when the locomotive was actually transferred, do you?

Mr. Ransom: Objected to.

The Master: I will let him answer.

19643 Mr. Ransom: It has been gone over fully.

A. No.

Mr. Ransom: Counsel had these vouchers a long time.

Q. Are the entries set forth in this Exhibit 185 made in the year in which the work is done, or when payment was made?

A. They have no reference to when the payment was made. The years set down are the years in which the transactions are recorded in the books of the company.

Q. But you don't know whether that was the year when the work was done or not, do you?

19644 A. Only what the records in the entries themselves disclose.

Q. Well, did they disclose?

A. In most cases, yes.

Q. In some cases they did not, did they?

A. In some cases I should say no.

Q. Do the items set forth in Exhibit 185 include engineering and superintendence other than the engineering and superintendence which you set up under that heading on page 94 of the exhibit?

A. I believe you called my attention yesterday to

an item of superintendence included in the detail of these schedules which is not included on page 94.

Q. Is that the only one?

Mr. Ransom: I object. They speak for themselves. The defendants have been going over these schedules for a long time, and they ought to know.

The Witness: If you will read through the page, I will call your attention to the items of superintendence that are set forth here.

The Master: The answer to this question is a perfectly simple one. 19646

The Witness: Yes. It is not the only one

Q. There are others?

A. There are others.

The Master: And the exhibit shows on its face?

The Witness: Shows on its face.

Q. Do they?

The Master: Yes. He says the exhibit itself shows the instances where superintendence is included other than page 74. That is where he just saw it, and that is what made me make the statement.

Q. Now, take your heading, "Engineering and Superintendence" on page 94 of this Exhibit 185, I ask you if you are not able to apportion this superintendence here, amounting to $454,653.06, engineering and superintendence, to specific property or items of property? 19647

A. I did not undertake to so do.

Q. Now, what does this engineering and superintendence relate to? You do not say what property?

A. I think I have already testified in regard to it, that it—

19648 Arthur W. Teele, Cross.

Q. When? In answer to any question of mine?

A. I believe so, yes.

Q. Could not this expense of engineering and superintendence which you have set forth in the amount of $454,653.06, have been apportioned to the specific property?

Mr. Ransom: I object. There is no reason why it should be. It is kept as a separate account, as prescribed by public authority.

The Master: I will let the witness answer the question.

19649 The Witness: That is not the original question, your Honor. I did not undertake to redistribute it. It represents the cost of the engineering department other than the expenses which are charged directly to specific projects, and on which the time and expense is kept directly. This total amount of indirect engineering expense is prorated between the companies on the basis of their construction expenditure as shown by their annual reports.

The Master: The amount charged here is the apportioned amount?

The Witness: This is the total expenditures.

19650 The Master: Including the—

The Witness (interrupting): Shown on this schedule, the total amount of the expenditures on the one hand, and I have shown on the withdrawal schedule the amount which has been charged to other companies. In other words, we show the debit side of the account and the credit side of the account.

Q. What was the basis of that apportionment of the superintendence and engineering between this company and other companies?

A. The ratio existing between the capital expenditure of each company and the total capital expenditure of the companies over which this expenditure was expended.

Q. Did you make the apportionment?

A. No, I did not make the apportionment.

Q. Who did?

A. The apportionment is made by the company, I checked the apportionment.

Q. And what data or information did you use to check that?

Mr. Ransom: I object to the question as fully covered in the previous testimony of this witness. 19652

The Master: I will sustain that objection.

Mr. Chambers: Well, this is the apportionment of this engineering between this and other companies.

The Master: Yes.

Mr. Chambers: He said it is made by the company and he checked it.

The Master: I think it is perfectly clear that he took the apportionments made by the engineers in the manner he has described as to all of these items. I do not think we get anywhere with this. 19653

The Witness: Not only that, but your Honor will remember that you directed me to investigate, and I went back into the books of all these companies.

Mr. Chambers: I take it your Honor, that you are merely treating his statement of apportionment as merely the apportionment by the company, that you are not going to assume that he has apportioned it.

The Master: That witness says that he did go further. I don't know whether you heard what

he just said. He said that he did go farther and did check up the books of the other companies to see what the amount of construction work was done by them, and whether the percentage agreed with that, so that I will take his—

Mr. Chambers: You would not let me ask any questions about that?

The Master: I will let you ask him, in view of what he said.

Q. Did you go to the books and records of the Standard Gas Company and examine them with ref-
19655 erence to this superintendence?

Mr. Ransom: I object to the question. That was fully gone into both on direct and on the preliminary cross-examination.

The Master: No, I am going to let Mr. Teele tell us about that.

Mr. Ransom: Exception.

The Master: I assume the question means did you look into the question of how much construction work these other companies did, according to their books?

The Witness: The apportionment is made on the basis of the construction shown by the an-
19656 nual report; that is what is known as the book form reports.

The Master: A report to whom?

The Witness: The report which is made dealing with the total figures for the year, and which is gotten up in the office of each company.

The Master: To whom?

The Witness: It is made for the officers of the company, it is not made to anybody. It is the annual report of the company, the compilation of monthly reports. Taking the figures which

were shown in those annual reports, I went back to the books of the company, took their trial balances, that is a list of their accounts and took those accounts which appeared to me to be the construction accounts and summarized them to see whether the amounts of construction expenditure as shown on the face of their books were the amounts which had been used in making the computation.

The Master: You don't know whether—

The Witness (interrupting): Having satisfied myself that they were the amounts which 19658
were used, I went no further.

Q. You don't know whether they were construction accounts, but they merely appeared so?

A. I did not go into the question of an examination of the vouchers to determine what they were. I took them on their face.

The Master: I think that is enough.

Q. Now, you could not have checked them unless you had gone into the records or reports of these other companies, could you?

A. I could and I did check the basis. Whether the basis that was used by the company was the basis that I checked— 19659

Q. (Interrupting.) And you could determine the accuracy of it without the reports of these other companies, could you?

A. The accuracy of the basis?

Q. Yes.

A. I could check the accuracy of the computation, having determined what the basis was.

Q. I did not ask you that. I said, could you have determined the accuracy of the basis of this computation without the records of these other companies? You got right away from the question.

A. The company having used the amounts shown in their annual reports, I could have checked the computation upon the basis which they used, which was the amount shown in the annual reports.

The Master: I think you have got all you can use on that.

Q. Have you examined the pay rolls of the company for engineering and superintendence, which is shown on page 94 of Exhibit 185, and the expenditures, to determine that it is a proper charge to capital?

Mr. Ransom: That is objected to.

19661 The Master: I will not take his statement on that, Mr. Chambers. As I told you yesterday, I have got to determine that.

Mr. Ransom: The uniform system of accounts prescribed what is a proper charge to capital and what is a proper withdrawal from capital. Anything beyond that is a question of fact.

The Master: Objection sustained.

Mr. Chambers: He put that in as additions which means capital investments, pay rolls, pay rolls in there.

The Master: That is because the company kept them that way, and he thought that was the

19662 proper thing to do, but that doesn't mean anything to me.

Mr. Chambers: I wanted to ask what the basis is.

The Master: I don't care what his basis is.

Mr. Ransom: If it has not been properly done the company has committed a crime.

The Master: I don't want his judgment on it.

Mr. Chambers: Exception.

Q. Can you state that none of the engineering and

superintendence related to repairs, set forth on page 94 of Exhibit 185?

A. No.

Q. Does the amount $454,653.06, shown on this page 94 of Exhibit 185, give the entire amount for engineering and superintendence charged to capital account during the years from 1906 to 1918, both inclusive by the Consolidated Gas Company?

A. It does, other than the items of superintendence to which you have previously referred.

The Master: Included in specific charges?

The Witness: Yes, sir. 19664

Q. Does this Exhibit 185 include all expenditures for additions during the period covered which you found on the books, except those relating to real estate, shown in a separate schedule?

A. It does not; it does not purport to.

Q. It does not?

A. It does not purport to.

Mr. Ransom: There are several other schedules which are in evidence.

Mr. Chambers: Now, I wish counsel would not testify.

The Witness: That is only additions to manufacturing plants and equipment. 19665

Q. Only?

A. That is all.

Q. The other additions are set up in other schedules?

A. Yes.

Mr. Chambers: We have not yet received the schedule of withdrawals which we found was different. I would like to take that up.

The Master: Take up something else. Where is that schedule?

19666 Arthur W. Teele, Cross.

Mr. Ransom: I am having copies made of it.

Q. Mr. Teele, does the statement you have made in regard to street mains withdrawn from service agree with the books of the company? Is this just a tabulation of the books?

A. It is a tabulation of the books.

Q. There is no difference between these amounts and the books?

A. No. The reconciliation with the books is shown on page 2. Page 2 shows the balance of the main
19667 accounts appearing in the company's operating ledger, December 31st, 1918.

Q. In what sum?

A. $11,027,266.24. Going back to the ledger of December 31, 1905, I found that the balance of the main accounts at that time was $7,498,526.15, making the net additions to the street mains between those two balances of $3,528,740.09. On page 1 of this schedule you will see how that amount of $3,528,740.09 is made up from the books. The additions to the mains are in street main record books 4 to 9, amounting to $1,122,323.12. The additions to mains for which separate accounts were not opened in the street
19668 main record amount to $2,638,077.57. Payment to New York City inspectors not allocated to the individual mains, but included in the street main accounts—

The Master: You need not read those. What I would like to know is a little more about this item of $2,638,077.57, additions to mains not put in the street main record. Why are they not in the street main record?

The Witness: Refer to folios 65 to 68—

The Master: Why are they not in the street main record?

The Witness: Why, these are large separate mains that were not included in the small detail main record books. Separate ledger accounts were carried for these mains. In other words, the accounts in the company's books representing their expenditure for mains was an account of street mains, and these other main accounts—

The Master: Special main accounts?

The Witness: Special main accounts, and then the street main accounts were set out in detail in these street main record books.

19670 Q. Now, take these withdrawals of mains, Mr. Teele, did you include in withdrawals mains that had been transferred to other companies?

A. Not unless they were included in the additions.

The Master: What do you mean by that?

The Witness: If anything had been included in the additions which was subsequently withdrawn as Consolidated mains and charged to other companies then they would be included in the withdrawals, because they do not now remain in the Consolidated Gas Company's street main account.

19671 Q. Don't you find that all mains are charged to the street main account when they are built?

A. No, there are some mains that are not charged to the street main account when they are built.

Q. But they are charged to some other capital account when built, are they not?

A. Some mains which were built and withdrawn within the period are not dealt with—street mains of the Consolidated Gas Company, because they are built and charged up to an account which is subsequently charged to one of the associated companies; and to that extent they have not been dealt with as a street main account of the Consolidated.

Q. But how about other mains, other than those that were built for other companies in the year?

A. All mains that have not been built for other companies, built and subsequently transferred to other companies, are included in these additions of mains, and the withdrawals, when they have been withdrawn, are included.

Q. And when they are built for other companies they are included in the withdrawal?

A. No, I did not say so.

Q. They are not?

19673 A. I said that where a main was built for other companies and subsequently transferred to other companies within the period 1906 to 1918, they have not been dealt with in this as additions to mains; neither have they been dealt with as withdrawals of mains, because if they were, they would not agree with the balance of street mains.

Mr. Ransom: I wish the record might show the tactics that are being pursued today of asking questions at rare intervals.

Mr. Chambers: Well, give us that other exhibit and I will go along.

Mr. Ransom: Go ahead with this.

19674 Mr. Chambers: Give us the exhibit I was prepared to proceed with.

The Master: Go on.

Mr. Chambers: Don't complain now, because it's your own fault.

Mr. Ransom: The tactics of asking three or four questions in half an hour—

Q. Now, the books do show that when a main was laid for another company the expenses for laying the main were charged upon the Consolidated Gas Company's books, isn't that so?

Mr. Ransom: I object to that as having been fully covered.

The Master: I will allow the question.

A. The expenses of construction of a main which is subsequently charged to other companies are shown in the accounts kept on the books of the Consolidated Company.

Mr. Chambers: That doesn't answer my question, please read it.

(Question read by stenographer.)

The Master: The Master rules that the question has been answered. 19676

Mr. Chambers: Exception.

The Master: Next question.

Q. And later a charge was made to the other companies by the Consolidated Gas Company, is that correct?

Mr. Ransom: Objected to. It has been previously covered by this witness.

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Take this balance here on page 2, of $7,379,336.74. That includes, does it not, mains that were charged to other companies, built for other companies? 19677

A. That is the balance of the street mains account appearing on the 1905 ledger at folio 31.

The Master: You have not answered the question. Does that include mains built for other companies?

The Witness: My recollection is that it does not.

Q. You say it does not?

A. My recollection is that it does not.

Q. That street mains account that I have just asked

you about, you took that right off the books; you did not go back and ascertain the source of that, did you?

Mr. Ransom: Objected to. It has been fully covered.

The Master: I will let him answer it.

Mr. Chambers: I suppose the whole case has been fully covered by this time.

The Master: Pretty much. Answer it, Mr. Teele.

A. It is the balance of the ledger account on the folio referred to.

19679 Q. You do not know the sources of it, do you?

A. I do not know what is back of the balance.

Q. What was this original paper that was furnished the Attorney General, manufacturing plant and equipment withdrawn from service, which we are talking about? Was that withdrawn, that schedule?

A. I suppose it was withdrawn.

Q. What about it, Mr. Teele?

A. What is your question, Mr. Chambers? I answered the last one.

Q. What was wrong about it?

A. I do not remember.

Q. You do not know the difference between that

19680 and the one now furnished?

A. I do not recall what the changes were that were made in the schedule. I did not charge my mind with it and I do not now remember.

Q. They are both made up by your office?

A. Quite right.

Q. Was the first one erroneous in some particulars?

A. There were some changes made in it. I do not recall them now.

Q. You do not know what they were?

A. No, I do not.

19681

The Master: Mr. Chambers, you have got the original that was served on you and you have now got the other one that was served on you. Suppose you compare them.

Mr. O'Brien: Would it not be a good thing to have the record show it? Here are the expert accountants.

The Master: Enough has been shown now.

Mr. O'Brien: They are supposed to represent the acme of perfection and they come in here on an important exhibit and have it all twisted.

19682

Mr. Ransom: It is a very slight variance and it can be explained.

Mr. O'Brien: I think you better explain it or let someone explain it. If the witness does not know where the difference is, somebody ought to know.

Mr. Ransom: We would be very glad to have the originals compared.

The Master: If you are not ready to cross-examine on that now, go ahead with something else and I will recall him afterwards.

Mr. Chambers: I think we will ask to have the cross-examination on this Exhibit 367 postponed until all of the information can be gathered together.

19683

Q. Exhibit 368, which relates to services, meters, miscellaneous property, additions and withdrawals, 1906 to 1918, is this a transcript from the books of the company and does it agree with the books of the company?

A. It agrees with the books of the company. It is a tabulation, Mr. Chambers, I should say, rather than a transcript.

The Master: I do not hear you, Mr. Teele.

The Witness: I say it is a tabulation rather than a transcript.

The Master: Well, you have not changed any figures in the books; you have not changed any segregation of items?

The Witness: No, it shows the balances of the additions and the withdrawals, and the books balanced as of 1918.

The Master: Except as you have tested the books and believe them to be correct, you cannot swear to any particular item?

19685 The Witness: With regard to these that is quite right.

Mr. Ransom: There is the same sort of test on page 2.

The Master: I understand that, but what I wanted to bring out was that Mr. Teele cannot undertake to say that every entry made in these books is absolutely correct. There may be some errors in it.

Q. Where is the balance that you started with?

A. If you will turn to page 2.

Q. $1,222,228.37?

A. Yes.

19686 Q. Do you know what that is made up of, or did you just take the balance shown on the ledger?

A. That is the balance of services, as shown on the ledger.

Q. You do not know anything about it prior to that time?

A. I have not examined the accounts with respect to this item prior to January 1, 1906.

Q. The balance for meters that you have set forth here on January 1, 1906, the same way; do you not know what it is made up of?

A. The same answer in regard to all of those items

Q. Each one of these set forth on page 1, as to the balance on January 1, 1906?

A. Quite right.

Q. The services that were withdrawn from service, did you check that up in any way to ascertain what part of the services was in fixed capital, what might have been in operating expenditures for the services withdrawn, or did you take the company's—

A. (Interposing.) The services withdrawn are withdrawn at a fixed unit price which has been in use by the company for many years.

Q. And you included them at that fixed unit price? 19688

A. They have been withdrawn on the books continuously at that fixed unit price, and this shows the statement of withdrawals which are based upon the reports made by the superintendents of the respetive street departments.

Q. What was that fixed unit price and where did you find it?

A. I found it in the entries making the withdrawals.

Q. Where did it come from, do you know—the Rowland report, or didn't you ascertain that?

A. My recollection is that it is not the Rowland report, that it is an arbitrary unit price established by the company many years ago. 19689

Q. What was it, do you know? Was it on the lineal foot basis, or what?

A. I think it is both on a lineal foot and size of service.

Q. Was that same charge made whether the service was removed or not?

A. Was what?

Q. Did they remove the services when they abandoned them, or just leave them in there; or don't you know about that?

A. I do not know about that.

19690 Arthur W. Teele, Cross.

Q. You do not know whether they took them out?

A. I have been governed by the superintendents of the street departments and their reports as to what was withdrawn from service.

Q. That is all you know about it?

A. It is.

Q. Did you do anything to check up the reports of the number of services withdrawn, or didn't you go into that?

A. For the year 1918 we examined all the entries in connection with services withdrawn. In other
19691 years we only made tests of entries here and there.

Q. You say the unit price, was not that fixed in the Rowland report?

A. I said my recollection was it was not. It was established by the company.

Q. What do you mean here when you have put down, "Transfer withdrawals from service 1909-1910, transferred in February, 1911, from service account?" What do you mean by that?

A. What page are you referring to?

Q. Page 5

A. My recollection of that, Mr. Chambers, is that in the years prior to 1911, following 1905, there had
19692 been no withdrawals from services, and that in 1911 there was a withdrawal from service in the accounts of services which had previously been withdrawn during 1909 and 1910, and they had been physically withdrawn, withdrawn from the accounts in 1911.

Q. What is there about this item on the same page 5, transferred to pipes and specials, $21,818.04? You have charged that in there, I see, and should not that come out?

A. I do not see it charged in there.

Q. Will you explain it, Mr. Teele?

A. I do not see it charged in there.

Q. Never mind that, will you explain it?

A. It is included in the withdrawals, and my recollection is that the material used for service had previously been charged to service direct. At this time they were taken out of the services and transferred to the account pipes and specials.

Q. And it does not represent property withdrawn from use?

A. It represents property previously charged to the services account, and to that extent it is the same kind of a withdrawal as though it had been withdrawn from use. 19694

Q. But it does not represent property withdrawn from use, though?

A. It represents property withdrawn from the capital account of services and transferred to the stock account of pipes and specials.

Q. Did you ascertain whether they were withdrawn at a unit price or how they were treated by the company?

A. I have already testified in regard to meters, but my recollection is that meters are withdrawn at the price established in the Rowland appraisal as to type and size.

Q. Did you make any change at all in the accounts of the company or did you accept them just as they had them? 19695

A. This account shows it as it stands on the books of the company.

Q. Did you check the account up in any way.

A. For 1918, yes.

Q. Only. But for other years, you did not?

A. For the prior years, no, except where we had to refer to vouchers and entries for the purpose of getting additional information to deal with the items.

Q. The additions to meters and expenditures for

each of these years you have. Did you check that up in any way, or did you just take the company's—

A. (Interposing.) No, we examined the invoices completely in 1918, and very many of the invoices of prior years, in order to satisfy ourselves that the meters were going into the meter account at their invoice cost.

Q. Why didn't you check up with withdrawals of meters to determine that they were being taken out at the proper figure?

A. Because the company were using a fixed basis
19697 of retirement on meters and I have shown it exactly as the company's accounts show it.

Q. You approved that method of treating the withdrawals of meters at a fixed charge covering all these years, did you?

A. Did I approve it?

Q. As an accountant?

A. What do you mean, whether I approved it or not?

Q. Do you think it is correct?

A. The identity of the meters being impossible of ascertainment, there is a ground for withdrawing them at a fixed unit price.

19698 Q. Were they not numbered, all of them?

The Master: I will not take his testimony on that anyhow. I do not care about his judgment.

Mr. O'Brien: There is a birthmark for meters that is known in the trade.

The Master: But I am going to decide it; I do not want the witness to decide it.

Q. In this cost of meters, does that include the mere cost of meters, or these additions, or include the installation in the consumers' premises, or what? What does it include?

A. My recollection is that it includes not only the

original invoice cost of the meters, but expenditure for installation. I would like to refer to the ledger, however.

Q. Will you now?

A. Yes.

Q. Tell me whether you have included installation in the expense of meters, additions, or whether that relates to the bare cost of the meters?

A. It includes cost of installation, Mr. Chambers. I will withdraw my answer on that. I want to look at one or two other ledger accounts. I said yes on the impression I had gained from these pay roll items 19700
of the repair shop being charged in there.

Q. Very well, if the Master cares to have you look at others, I have no objection.

A. I will either look at these or look at my working papers.

The Master: Look it up before you give a definite answer.

Mr. Chambers: The defendants want the whole truth here.

Mr. O'Brien: You have a depreciation entered upon that account, have you not, Mr. Teele?

Mr. Ransom: I object to the interruption.

Mr. O'Brien: Before the big book is closed I 19701
want the right amount, your Honor.

Q. Are you prepared after this time spent in looking up, to answer the last question?

A. During this time I have looked up this question that you asked me about, the boiler transferred from 14th Street, and I do not see it.

Q. That was not the question I have just asked you. If you will let me I would like to tell you about this, if I may.

Q. Yes.

A. Looking up this account, 65th Street station, to

which I referred before, I did not notice it because the item happens to be ruled up as though it was a footing. It refers to the 14th Street station, that $4,500 included in this $6,162.76. The $4,500 is included in the withdrawal schedule, the value of the boilers withdrawn from 14th Street.

Q. You are speaking of Exhibit 261, at page 11?

A. Page 11, construction 65th Street station, the amount of $6,162.76 does include the valuation placed upon the boiler transferred from 14th Street and in my withdrawal schedules I did include $4,500 as plant
19703 withdrawn from 14th Street, and in the additions schedules to 65th Street I have shown $6,162.76 which includes the valuation of the boiler withdrawn from 14th Street.

Q. Well, where did you see the boiler?

A. It is this plant, 14th Street station.

Q. How do you know that is the boiler now? How do you say that that boiler is included in that?

A. Because I found this $4,500 item and I looked at my own withdrawal schedules and I see in my withdrawal schedules that I had it.

Q. I know, but that says, "Plant withdrawn"? I do not see where you make the deduction that the
19704 boiler is included in that. It does not say anything about boilers?

A. By looking up this item on 65th Street station, I find that there is an item included in the $6,162 of $4,500 from the 14th Street plant account.

Q. Yes.

A. And by looking up my own schedules of 14th Street plant withdrawals, I find the item $4,500 which is set out as the two Scotch marine boilers transferred to 65th Street station at the book value of $4,500.

The Master: I won't take any more on that.

Mr. Chambers. Let us get to the question you

were looking up when we declared the recess.

The Witness: The question was was there anything besides the invoice cost of meters—whether the cost of installation was included in the capital value of meters.

Q. From 1906 on?

A. It is the invoice price of the meters purchased, plus a few small handling charges that are added in.

Q. But not the total cost of installation?

A. There is no cost of installation included in it.

Q. Will you explain this entry on pages 8 and 9 of this Exhibit 368, of the item of $26,443.25, which 19706
we find on page 9 in red, amount transferred from meter account representing withdrawals for 1909 and 1910?

The Master: It doesn't say that. It says, "Plant withdrawn from service 1909 and 1910."

Mr. Chambers: Mine says withdrawals for 1909 and 1910.

Mr. Ransom: Which is the item you are referring to?

Mr. Chambers: I have stated it: I have given the amount of the item.

The Master: On page 8, but it is in red on page 9.

19707

Mr. Chambers: That is what I called his attention to.

The Master: In red on page 9. Do you see it? Can you explain that?

The Witness: My recollection is this, that under the Public Service regulations the company was required to set up after December 31, 1908, its fixed capital under the title of that account, "Fixed capital, December 31, 1908," and they have set up in that acccount all the items representing their fixed capitals of that date. Sub-

sequently the expenditure as made was carried under the various titles as prescribed by the Public Service Commission. When withdrawals were made they were credited in the first instance to the "Fixed capital, December 31, 1908" account. Some withdrawals had been credited to the account representing expenditures subsequent to December 31, 1908, and in order to follow their uniform methods they transferred the items which had been so credited back to the credit of the account of fixed capital, December 31, 1908,
19709 so that all withdrawals are credited to that account except those withdrawals on meters which are subsequent to number fixed as the number of the meter installed after January 1, 1909.

Q. Now, "Cocks and Connections" on page 10 of this same exhibit, the balance there on January 1, 1906, $284,136.04, you found on the ledger, and you don't know what it is, or anything about it, do you?

A. That is the ledger balance at January 1, 1906.

Q. Now, take the cocks, the additions. Did you figure them together, the cocks and connections?

A. Yes.

Q. Those are just as they are set up in the book? Did you check it at all to ascertain where those were
18710 put in, or anything about them?

The Master: Objection sustained on the ground the witness has told us that he checked the 1918, but not for prior years.

Q. Did you check any of the years other than 1918? I don't know whether he did on this item or not. Did you check 1918?

A. We checked all vouchers in 1918 and we checked principal vouchers in the years prior.

The Master: But not every one?

Q. But not every year?

The Master: But not every voucher?

A. But not every voucher.

The Master: I take it, you checked very few in the prior years?

The Witness: I checked a great many.

The Master: A great many?

The Witness: A great many, yes, as a matter of fact.

Q. What was included, the cost of the cocks?

A. Yes.

Q. Say cost, and was the expense of putting them in included in this? 19712

A. My recollection on this is that there is no expense of installation included in these.

Q. But this is the bare cost of the cocks and the connections?

A. Yes, sir.

Q. Just the bare cost of the cocks and connections?

A. The invoice cost.

Q. And do you know whether those used in connection with the services or with the mains or both?

A. Material that is represented by the vouchers charged to this account is endorsed as being for the purpose of cocks and connections, and the invoices have been so charged.

Q. And do you know whether those were used in connection with the services or with the mains or both? or mains, do you? 19713

A. I am dependent and have relied upon the endorsement of the authorized official of the company as to the purposes for which the material was purchased.

Q. Now, the withdrawals, how did you treat those withdrawals? What was the basis of the amount?

The Master: Doesn't that appear on page 12, what the basis was?

Mr. Chambers: Well, I don't know. It says 5% on balance of account.

The Witness: I think the statement on page 12 is as plain as it can be made in the English language.

The Master: Objection sustained to any further inquiry as to how it was done. It is quite apparent as to how it was done. It is quite apparent it was an estimated withdrawal based on 5% semi-annually; every six months they apparently took off 5% of the cocks and connections as having been withdrawn, and it says, "Total Estimated Loss Due to Withdrawals."

19715 Q. Well, it was an estimate, wasn't it?

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Now, on page 14 you set up the balance of gas stoves rented. That is the same as the others, that is the balance you found on the books, is it, speaking of that balance of $256,846.85?

A. It is.

Q. Now, the item of $3,194,677.31 was for both gas stoves rented and gas appliances rented?

The Master: Objection sustained.

Mr. Chambers: Exception.

The Master: It says so on the schedule.

19716 Mr. Chambers: It is not clear here, mine isn't.

The Master: Next question.

Q. How is that sum made up, the value of the gas stoves, cost value, invoice value?

A. The make up of it is shown on the succeeding page, 15, being the net additions for the year on each year as set out in the schedules.

The Master: Does it represent cost? In arriving at the net does it take into consideration cost of appliances?

The Witness: It is either at the invoice cost or the inventory value.

Q. You are not able to say which are you?

A. It probably is both.

Q. And who made up the inventory value?

A. The inventories are made up in the commercial branches under the supervision of the superintendent of each branch.

Q. And you examined those?

A. We did examine the inventories for the year 1918 on gas appliances. We did examine the inventory of November 30, 1917, and compared those inventories with the invoices of appliances purchased prior to the inventory period, for the purpose of satisfying myself as to whether the inventories were 19718 taken at purchase prices, last purchase prices, or at some other price.

Q. What do you mean by the word "net" on page 15, "Net additions?"

A. I do not now recall why the word "net" was used there. I presume it is after taking off any corrections that may have been made in the additions during the year, so as to arrive at the net additions for the year.

Q. Are those corrections set up anywhere?

A. Well, I could hardly get them unless they were set up.

Q. What? 19719

A. I could hardly obtain the corrections unless they are entered in the accounts of the company.

Q. Where are those corrections set up?

A. They will appear in the ledger accounts, if that is the reason for using the word "net."

Q. You are kind of hazy about why you used "net"?

A. I do not recall at this time why it was used.

Q. When you withdrew the stoves and appliances at what price did you withdraw them, or how did you treat them in making up this schedule?

19720 Arthur W. Teele, Cross.

A. The account shown on pages 16 and 17 sets out clearly the basis of withdrawals of gas stoves rented.

Q. You sometimes took ten per cent and sometimes twenty per cent of the balances of accounts?

A. I show the withdrawals as made by the company.

Q. And those are estimated?

A. The statement shows exactly what was done.

Q. Are they estimated or are they actual?

A. In part estimated and part actual.

19721 Q. Why did you take twenty per cent in December, 1915, and always after that?

A. That is the amount of withdrawals as estimated by the company at that time.

Q. You don't know anything about it yourself, you just took their version of it?

A. This statement is taken from their account.

Q. And there is no variation between it and their accounts?

A. Except in the year 1918. In 1918 the appliances were withdrawn at their last inventory price.

Q. Your schedule then does disagree with the books in 1918?

19722 A. It does not disagree with the books, it is in accordance with the books. This schedule says, "Cost of Appliances condemned and destroyed for 1918"; also for 1917 and for 1916. Prior to that the loss due to withdrawal was estimated by the company on the basis as set forth in this schedule.

Q. On page 16 you have "Cost of Gas Appliances." That is not cost, is it? It is an estimated value?

A. It is the inventory value, the last valuation prior to the withdrawal.

Q. Somebody's estimate of the value? That inventory was somebody's judgment as to what the appliance was worth?

A. It was not.

Q. What was it?

A. The inventory was a list of the appliances at the last invoice cost.

Q. You said last inventory?

A. I said the inventory was a list of the appliances valued at their last invoice cost.

Q. Last invoice cost of similar appliances, was it?

A. Yes.

Q. But not these very appliances?

A. What do you mean by "these very appliances?"

Q. It was not the appliances themselves that were 19724
taken out that you had the last invoice cost of?

A. No, of course not.

Q. It was similar appliances, like appliances?

A. Like appliances.

Q. But not these very appliances that were being withdrawn?

A. It was not.

Q. What is this set up here on the bottom of page 17, "Loss on Gas Appliances Sold," running over $70,000—to be exact, $76,030.49, for one year?

A. It is the difference between the proceeds realized from the sale of appliances sold on the district, that is, appliances which had been in use, and the last in- 19725
ventory valuation of similar appliances?

Mr. Chambers: Well, I won't ask any more questions, I will leave that to Mr. O'Brien.

Mr. Ransom: You have covered it.

Mr. Chambers: No, I have not, I could ask a lot more. He is prepared to go into that.

Mr. Ransom: You can ask questions but you have covered it.

Mr. Chambers: Don't let us waste time on that, Judge. Mr. O'Brien will complete it.

The Master: If it is not already completed.

19726 Arthur W. Teele, Cross.

Q. "Tools and Implements, Balance on January 1, 1906." You know nothing about that, you just took that from the books?

A. That is the balance shown on the ledger, the balances shown on the ledger.

Q. You don't know anything more about it other than that it is there, is that right?

A. That is right.

Q. Now, the tools, what are they, generally speaking? Did you ascertain that, what the tools and implements are?

19727 Mr. Ransom: I object to the questions. That is a definite account.

The Master: I will let him state.

A. I did not ascertain what tools and implements they were.

Q. Now, how did you get these amounts here on page 18, for tools and implements?

A. Which amounts are you referring to?

Q. All of those amounts. Are those the book cost or what?

A. There are various figures on page 18. If you will specify which one you mean I will try to answer you.

19728 Q. Tools and Implements, 14th Street Station, $3,081.71.

A. That appears on folio 181 of the ledger for 1906, January 1st.

Q. What is that for?

A. What it says, tools and implements, 14th Street Station.

Q. You took the figures from the ledger?

A. I did.

Q. That is all you know about these tools and implements?

A. Just what it purports to be, the book balance of that date.

Q. You don't know whether the tools were purchased or used or anything about it, do you, more than what is on the ledger?

Mr. Ransom: I object to the question.

The Master: I will let him answer that. You don't know anything about it?

The Witness: No.

The Master: It is perfectly plain as to just where the witness's knowledge goes. I don't think any further questions on that are necessary, 19730 as to any other items.

Q. Now, tools and implements that were to be withdrawn, how did you ascertain the amount at which they were to be withdrawn. Did you just copy it off from the ledger?

Mr. Ransom: I object to the question. It shows on page 30 exactly what was done, it is all set out.

Mr. O'Brien: And this is a rate case.

Mr. Ransom: Some parts of it are.

The Master: Well, Judge Ransom has told you where you will find the memorandum. Let us have your statement about it. 19731

Mr. Chambers: I was wondering if he could find it.

A. The withdrawals are based upon a percentage taken upon the balance of the accounts from 1906 to 1918, as set forth on page 30 of this schedule.

The Master: Who gave you those percentages?

The Witness: They are the percentages used by the company.

The Master: That is all you know about it?

19732 Arthur W. Teele, Cross.

The Witness: That is all I have taken.

The Master: It is an estimate result then?

The Witness: It is an estimate withdrawal of tools, based upon that percentage.

Q. Now, automobiles and accessories—

The Master: One question, Mr. Chambers, I am going to allow, taking the various subdivisions, automobiles and accessories, horses, wagons and harness, furniture and fixtures, and scows. I am going to let you ask him whether the balances shown are book balances, whether
19733 the statement made with reference to other schedules are applicable to this. I am not going to let you go into it in any more detail.

All of those balances you show are book balances?

The Witness: They are the book balances of the account as set up, as fully shown on the schedules.

The Master: You don't know anything about the book balances any more than you did as to other schedules?

The Witness: Prior to 1918, except upon the actual retirement, as in the case of automobiles,
19734 where there were sales made, I have referred to the original entries and the papers attached to them.

The Master: I don't think we need any further cross-examination on this.

Q. Did you find that they deducted from these automobiles and accessories ten per cent. annually for depreciation?

The Master: Is that what the schedule shows?

A. Page 34 shows that there is credited to the account of automobiles and accessories as withdrawals, ten per cent upon the balances semiannually, at the dates shown in the schedule.

Q. Is there any other account in the books treated as this is, that is, automobiles and accessories, in that regard, that you found?

A. I think you have referred to a number that are treated similarly.

Q. What are they that are treated the same as this?

A. Tools and implements, for one, treated similarly.

The Master: You need not read any more. The schedules show.

Q. Did you treat horses, wagons and harness in the same way as you have treated automobiles?

Mr. Ransom: Objected to. It is set out in great particularity. 19736

The Master: Objection sustained.

Mr. Chambers: Exception.

Q. Did you treat furniture and fixtures in the same way that you treated automobiles and accessories?

Mr. Ransom: Objected to.

The Master: Objection sustained. The schedule shows how he treated it.

Mr. Chambers: Exception.

Q. On page 68, "Interest during construction." Interest during construction of what?

Mr. Ransom: I object to the question. It shows right on its face what it is. 19737

The Master: My recollection is it does not show very clearly. The witness may state.

A. The title of the schedule is the title prescribed by the Public Service Commission. The items included in the schedule are discount retained by the company on expenditure charged to construction accounts for the years as shown.

Mr. Ransom: It shows on the face of the summary schedule, sheet 1.

Q. How do you consider or treat that as a withdrawal, entries during construction, discount on purchases?

A. You mean how do I treat it as a withdrawal?

Q. You have it treated as a withdrawal.

A. It is a credit to the construction expenditure.

Q. It should be a credit to additions, should it not?

A. It is.

Q. Not to withdrawal?

A. It is so set up in this summary.

Q. I do not see it in additions at all on page 1.

A. I should not expect to find it in additions. I do see it in withdrawals.

Q. You have added it to withdrawals?

19739 A. Certainly. That is the credit side of the construction account.

Q. I ask you why you treated it as a withdrawal instead of crediting it to additions. Can you explain?

The Master: It was not an expense.

Mr. Chambers: What is that?

The Master: It was not an expense. It was credited to the expense.

Mr. Chambers: It is a receipt.

The Master: Objection sustained.

Q. Did the company treat it the way you have treated it on page 1?

The Master: Objection sustained.

19740 Mr. Chambers: We do not know how—

The Master: He said it was an account kept in accordance with the requirements of the Public Service Commission.

Q. Show me where in the Public Service Commission requirements that is to be treated as a withdrawal?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

By the Master:

Q. Are you ready to tell me about that insurance, Mr. Teele?

Mr. O'Brien: Will your Honor kindly say what the purpose of it is?

The Master: Why, several days ago there seemed to be a very wide variance between some insurance charges in 1918 and 1919, and I asked the witness how he explained it. He said he would have to look into his records, and he told me yesterday he would be ready to tell me about it this morning. I want to get it. Let us hear about it, Mr. Teele.

A. The total amount of insurance—

Mr. O'Brien: Just a minute, Mr. Teele. Are 19742
you reading from an exhibit now?

The Master: No, he is not, Mr. O'Brien. He is reading from his working papers.

The Master: The total amount of insurance included in the eight months' schedule and shown as the amount of expenditure for insurance on the operating ledger to August 31, 1919, is $91,350.84. It is made up as follows—

Q. I know how it is made up, but there were some items there quite out of line with the 1918. You said you were going to find out why that was so.

Mr. O'Brien: You need not be afraid of the
details, Mr. Teele. We want them all. I will 19743
ask you on that question.

Mr. Ransom: It is not necessary for counsel to try to intimidate the witness.

Mr. O'Brien: He is shivering with fear.

Q. Give me how you make up in 1918 the insurance item of $89,000?

A. In 1918?

Q. Yes. Fire was how much?

A. Fire is $33,413.81.

Q. What was the next one?

A. Accident.

19744 Arthur W. Teele, Cross.

Q. How much was accident in 1918?

A. $38,370.60.

Q. In 1919, for eight months you have $51,000, and I want to know why that variance?

A. Well, in 1918 there is an adjustment of the accident insurance premiums, by which there is a refund, reducing the actual amount applicable to the year 1918. Instead of being $38,000, it is reduced—or should be $41,725.59.

Q. $41,000 was reduced to $38,000?

A. Yes.

19745 Q. Why is it $51,000 for eight months as against $41,000 gross for the whole year 1918?

A. It is fifty-one in the eight months. Because that includes an adjustment of the liability insurance for the prior period and prior year. In other words, they adjust in about June of each year the liability insurance for the prior year, and in 1918, there happened to be a credit adjustment and in 1919 there is a debit adjustment.

Q. The insurance is based upon the number of employees?

A. It is estimated during the year on the expected pay roll, and after the pay roll is concluded and the

19746 actual amount of labor paid determined, then there is an adjustment of the insurance. In 1918 there was credited to the insurance account a credit adjustment due to the over-estimate of 1917, and in 1919 there is charged an amount due to the under-estimate for 1918.

Q. That was the item at the bottom. I see. Based on the pay roll, the pay roll was probably higher for 1919?

A. It was higher than was originally anticipated in the schedule.

The Master: Mr. Chambers, have you anything else?

Mr. Chambers: With the exception of Exhibit 367, on which we would like a little time to prepare cross-examination, and then this Exhibit 366, I think it is, of 1917—I have not cross-examined fully on that.

The Master: After you have looked at his memorandum.

Mr. Chambers: I do not expect ever to look at his memorandum.

The Master: Then I do not expect to ever 19748
let you ask a question.

Mr. Chambers: What is that?

The Master: Then I do not expect to ever let you ask a question.

Mr. Chambers: Will he turn over his memorandum to us?

The Master: No, you can look it up at their office. Tell me what time your men will be there and I will direct Mr. Teele's man to be there.

Mr. Chambers: I want him to turn all his figures over to us.

The Master: I will not do it.

Mr. O'Brien: What is this idea, that we are 18749
going to meet with Mr. Teele's employees and sit down and ask them questions, and hold an examination of them without you being present?

The Master: Yes.

Mr. O'Brien: And without our right to cross-examine and have that examination on the record?

The Master: You can do anything you like, so long as you get clear in your mind what par-

ticular questions you want to ask Mr. Teele that will be helpful to this case. I am not going to permit counsel to take that schedule from 1906 to 1918, and spend hours and days asking Mr. Teele questions as to what items are and what they mean and how he arrived at them, when, if they will look at this data prepared by Mr. Teele and his assistants, they may be able to come into court and say, "Mr. Teele, there are two or three items we want to ask you about." You can do anything you please.

19751 Mr. O'Brien: There may be a hundred papers, they may be scratch papers, they may be papers that will not be produced.

The Master: Yes.

Mr. O'Brien: If we are going to ask them questions and they are going to give oral testimony, make oral statements, surely we ought to have these men on the witness stand.

The Master: I do not care what you do. I am going to make the same ruling about whatever this number is, as I did with reference to the schedules furnished you last May or June, which you have now been interrogating about. You

19752 have had the opportunity to examine the basis on which they were made. I am going to give you the opportunity to have them here. I am giving you the opportunity to do so. If you do not want to avail yourself of it you need not.

Mr. Chambers: Where are these papers we are to examine?

The Master: Where are they?

The Witness: At 130 East 15th Street, in my room, and they will be available at any hour of the day or night your assistants want to examine them.

Mr. Ransom: What room is that?

The Witness: In Room 1734.

Mr. Chambers: I do not think you have given us anything. You are depriving us of certain rights. You admit this in evidence and we are entitled to have the figures and the basis of them.

The Master: And I am entitled to have as little time spent as possible, and, therefore, I direct counsel to examine the exhibit and underlying data before that cross-examination proceeds.

Mr. Chambers: And we are to go there, to the office, and examine them? 19754

The Master: Yes.

Mr. O'Brien: I respectfully take exception to your Honor's ruling, and I point out the injustice and unfairness of it. This paper, Exhibit 366, was only offered in evidence and shown for the first time about three or four days ago, or maybe a week ago, and it purports to cover the net revenue of a long period of years. If your Honor will speak your mind and say that it is worthless, that you do not give it any force, then we might consider it as valueless and not waste any time on it.

The Master: I will not make any such statement, because I do give it some force and it has some value. 19755

Mr. Ransom: And we furnished these defendants in June, somewhat more detailed statements on 1906 to 1917, than is embodied in this Exhibit 366.

The Master: I do not want any more discussion.

Mr. O'Brien: In taking my exception to your ruling my position is that in making the ruling

you are in effect putting upon the defendants the burden of proof in this case. It is not to be presumed—

The Master Now, wait a minute. The Master directs that the cross-examination of Mr. Teele, with reference to Exhibit 366, shall stand over until Mr. O'Brien is through with his cross-examination. Meanwhile the Master directs Mr. Teele to submit at the office of the Gas Company all of the data and items which will explain any matter or thing with relation to that schedule,

19757 Exhibit 366. If counsel for the defendants do not want to avail themselves of that opportunity they need not do it, and when the question comes up of the cross-examination of Mr. Teele on Exhibit 366, however, I shall limit the cross-examination very closely. Now, let us go ahead. Otherwise you are through?

Mr. Chambers: Exception to that.

The Master: What are you excepting to, to my postponing the cross-examination?

Mr. Chambers: No, I want him to produce the data here and I want to use it for cross-examination.

19758 The Master: Just now I have postponed the cross-examination. Do you object to that?

Mr. Chambers: No.

Mr. O'Brien: Your Honor has switched your ruling.

The Master: Are you objecting to that?

Mr. O'Brien: I take an exception to your Honor's ruling.

The Master: Do you object to my postponing the cross-examination to give you a chance to look at these items?

Mr. O'Brien: Under the conditions, yes.

The Master: You have no further cross at this time?

Mr. Chambers: I have as to Exhibit 363. I want to examine as to that, that is all—367, rather.

The Master: But you do not want to do it now?

Mr. Chambers: I am not prepared.

The Master: I will postpone that until Mr. O'Brien is through. Otherwise you have nothing now?

Mr. O'Brien: No—366 and 367. 19760

The Master: When Mr. O'Brien gets through with his cross, you remind me that you want to examine on those two exhibits.

Mr. O'Brien: Your Honor, it is close to one o'clock.

The Master: I have got to use up the fifteen minutes.

Mr. O'Brien: I want to send for some statistics.

The Master: You should have had them here. If I could work this afternoon I would adjourn now and spend an hour this afternoon, but I cannot work this afternoon. I cannot afford to let 19761
this fifteen minutes go. Do the best you can. You do not need Mr. Sangster.

Mr. O'Brien: I know, but we are close to one o'clock and I have been up a good part of the night and prefer to begin fresh with my examination.

The Master: The only thing that appeals to me is you have told me that you were up a good part of the night with a sick baby, but ten minutes does not make any difference.

Mr. O'Brien: I want some continuity in my examination. It is going over quite a range.

The Master: We will adjourn until tomorrow morning at 9:15 A. M. I will announce now that on Thursday and Friday I am going to sit from two to four in the afternoon. We will start at 9:30 Thursday and Friday and run until one, then from two to four on those two days, unless I find that I have got to use one of those afternoons.

Mr. O'Brien: Where is poor little Edward
19763 Swann, the defendant, coming in on this? I say this with due deference to you, and I want to say it to your face and not behind your back when your report comes up before the District Court. I protest now against the procedure that the Master outlines, of having the afternoon sessions as well as the morning at the time when I have witnesses under cross-examination. Now, that is purely accidental, due to the conditions that are arising. Granted, but at the same time in effect it means that I will have to go through with cross-examination for a period of seven hours on each of those days.

19764 The Master: No, it is only five and a half hours.

Mr. O'Brien: I have all I can do to proceed with my cross-examination.

The Master: Make it five and a half hours.

Mr. O'Brien: Well, leave it at five and a half hours. There is the position I am in: I have a number of other cases pending, rate cases; I have a lot of other public business that is being retarded, and I have the preparation of this case after I came out of a case that I finished in June.

It is simply inhuman to expect a man can be prepared with all this technical matter and burn the midnight oil and try to come into court and fulfill his duty.

The Master: The Corporation Counsel has no right to give you any other job just now but this.

Mr. Ransom: You are not working for the Corporation Counsel.

The Master: I have set aside a tremendous number of matters to give my time to this. I thought I would be finished the 15th of October.

Mr. O'Brien: I will say this afternoon we are 19766
going to have a conference which will take up the whole of the afternoon, and I will perhaps put in from 6:30 to 9 o'clock on further cases and in preparation for this case as it goes along. There is a further preparation for cross-examination, but as the examination of a witness develops your Honor knows the work must be done out of court, and if it is well done it will mean the expedition of the cross-examination itself. It would be well for you to adopt the same course while I have a witness under cross-examination that you do with regard to the direct testimony and the rest of the case. 19767

The Master: I have been trying to run afternoons as much as I can. But I will do it.

Mr. O'Brien: I will renew my objection at the time your Honor makes the ruling. That will be the day after tomorrow.

The Master: I have been very much puzzled about Thanksgiving week and likewise about Christmas week, if we run that long. Thanksgiving is on a Thursday, so there is not much lost. I suppose I will have to let that go, although

I am going to try to run afternoons that week. Not Monday, but Tuesday and Wednesday I will run in the afternoons to make up for the two days we lose.

Mr. Ransom: Morning and afternoon on Tuesday and Wednesday?

The Master: Yes. Thanksgiving week is next week. I am going to run on Monday afternoon from two to about five or half-past five, and on Tuesday from half-past nine to one and from two to four, on Wednesday from half-past nine to
19769 one and from two to four. We will adjourn Wednesday afternoon until the following Monday afternoon at two o'clock. If we are not finished by Christmas, much as I want to go away that week, I am going to sit during Christmas week, because the present indications are that I will have to go away on the 2nd or 3rd of January, to Cuba. I hope I do not get any nearer to it than I did before, but it looks as if I would have to go, and I will be two weeks there. I cannot afford to let that week during Christmas and New Years go.

Mr. O'Brien: Why not take an adjournment
19770 for the month of December and save some time.

Adjourned to Wednesday, November 19, 1919, at 9:15 o'clock A. M.

Last Complainant's Exhibit 375.
Last Defendants' Exhibit AA-12.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 19771

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 19, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 19772
MR. O'BRIEN, of Counsel for defendant Swann.

ARTHUR W. TEELE resumes the stand.

CROSS-EXAMINATION BY MR. O'BRIEN:

Q. Mr. Teele when did you first negotiate a contract to take over this accountancy work for the complainant company?

Mr. Ransom: Objected to as fully covered. 19773

The Master: Objection sustained.

Mr. O'Brien: Exception. Your Honor, I want to go into that subject—

The Master: Mr. O'Brien, I say this is covered.

Mr. O'Brien: When you say it is covered do you mean—

The Master: I mean I won't allow any more questions.

19774 Arthur W. Teele, Cross.

Mr. O'Brien: Am I to assume from that that you rule that it is something that has been gone over by Mr. Chambers?

The Master: I rule that it is something that has been gone over by Mr. Chambers or by you.

Mr. Ransom: This has been gone over by Mr. O'Brien.

The Master: I think you went into this on the preliminary cross.

Q. Mr. Teele, have you ever testified for a utility company in a rate proceeding?

19775 Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained. I will not permit any cross-examination as to qualifications. We have had enough of that.

Mr. O'Brien: Exception. I am not going into the question of qualifications, your Honor.

The Master: The objection is sustained.

Q. Did you make a report of the work you did for the Stevens Investigating Committee?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Have you a copy in your files of the report, if

19776 any, that you made of your investigation of the complainant company for the Legislative Committee?

Mr. Ransom: Objected to on the same ground.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Are you able to produce the results in the shape of schedules or reports of the examination you made of the complainant's books for the Legislative Committee to which you have previously referred?

Mr. Ransom: Objected to on the same grounds, and on the further ground that it is immaterial.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. When you examined the books of the complainant company for the purposes of the Legislative Investigating Commission, did you go into the books of account of the affiliated companies of the complainant?

Mr. Ransom: Same objection.

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Did you at that time determine for yourself, as you have in this case, the cost of producing gas for the complainant company?

Mr. Ransom: Same objection. 19778

The Master: Same ruling.

Mr. O'Brien: Exception. Your Honor, I would like to get an idea of just the trend of your mind when you make this ruling.

The Master: The trend of my mind is that these questions are not cross-examination and have nothing to do with this case.

Mr. O'Brien: Well, I have a different view on it.

The Master: I know you have. Otherwise you would not ask the question. I disagree with you.

Q. Did you ever make an audit of the books and 19779
accounts of any gas companies with the exception of your work for the Investigating Committee to which I have referred, prior to your testimony in this case?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

Mr. O'Brien: Exception.

The Master: If you have any questions to ask about the tabulations offered in evidence by this witness I wish you would ask them. I will not permit any further questions along this line.

Mr. O'Brien: Well, I have a lot of questions to ask.

The Master: Along this line?

Mr. O'Brien: Yes.

The Master: I will not allow you to ask any more. You have your exception.

Mr. O'Brien: Some matters have been gone into, and in the preliminary examination you limited me on the ground that it could be taken up on general cross-examination. I am not assuming that this witness is an expert on anything. The point is that I would like to make a record. I don't want to take up too much time.

19781 The Master: I think your record is complete.

Mr. O'Brien: I want enough of it in the record to indicate what I am driving at. I do not want to be insistent.

The Master: Well, I will let you ask a few more questions.

Mr. O'Brien: Your Honor will recall that when we went into his qualification you held us closely to it, and you said that that would come up later on.

The Master: I remember I stopped the cross-examination and said I might permit more later on. You may ask one or two more questions.

19782 Q. Mr. Teele, in the examination into your qualifications I asked you questions as to what work you had been doing in and around New York, and you felt that you did not want to go into that matter.

The Master: I remember that, he would not disclose the names. We went into all that.

Mr. O'Brien: You said that would come up later on, but would not be allowed on the preliminary cross-examination.

The Master: No, I didn't say that at all. Show me where I said that. I refuse to make the witness disclose the names of clients.

Mr. Ransom: Outside of public utility people.

The Master: Yes, I ended the discussion by making a ruling on it. I will make that broad ruling now, Mr. O'Brien, to save time, I will not permit any further cross-examination touching on qualifications, and I give you an exception.

Mr. O'Brien: I want to go into the question of his bias, now.

The Master: I will not allow any questions on the proposition of bias, and I will give you an exception to that.

Mr. O'Brien: If you will let me put a few 19784
questions you can make your ruling, and let me get a skeleton of this on the record.

Q. For whom have you done work in New York City in the auditing line?

Mr. Ransom: Objected to on the grounds already indicated.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Have you done any accountancy work for the Standard Oil Company of New Jersey or the Standard Oil Company of New York?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Have you done any work for any of the com- 19785
panies in which Mr. Nicholas F. Brady is interested?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Did you make up the income tax account for the complainant company?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. For any year?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Have you been devoting any time this year to work other than that of the complainant company?

The Master: Same ruling.

Mr. O'Brien: Your Honor, I think I have a right to go into this.

The Master: No.

Mr. O'Brien: You expressly put it over at the time we were on this subject.

The Master: Well, I have changed my mind.

Mr. O'Brien: Will your Honor state the ground on which you will not allow me to bring
19787 out his affiliations, and whether there is bias, and what is actuating his mind in giving this testimony?

The Master: No, I will not state any more than I have stated.

Q. In your work for Mr. Jerome as District Attorney, did you make an audit of the books of account of the traction companies of the City, or any of them?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Have you got a copy of your report?

The Master: Same ruling.

Mr. O'Brien: Exception.

19788 Q. When you discussed with the representative of the complainant company the nature of your employment in connection with this case, what were your directions as to the work that you were to do?

Mr. Ransom: Objected to.

The Master: Same ruling. Mr. O'Brien, I am going to insist that all questions other than questions relating directly to the tabulation testified to by the witness shall be discontinued. In other words, I do not want any more questions asked of this kind. I think I have permitted you to make a record that will fully protect you. I wil not

permit any further cross-examination on the question of bias, qualification or interest. I insist that counsel proceed with the questions directly bearing upon the exhibits offered in evidence and the testimony with relation thereto.

Mr. O'Brien: Well, I want to state to the Court at this time that I propose to examine the witness as to all of the work that he has been doing in and around New York, the parties, persons or corporations that he has been working for, the character of the work that he has been doing for corporations, the nature of the work 19790
done for public utility companies, and I respectfully take exception to your Honor's ruling.

The Master: Yes.

Mr. O'Brien: The purpose of this examination, of course, is to show the results of the witness's work. I have attempted, starting with the Stevens Investigating Committee, a subject that was opened up by counsel on the direct-examination to find out what the witness has done, whether his work was of such a character as to warrant our deciding this case upon his work there—

The Master: Let me interrupt you to save 19791
time. I will assume that you can show that his work was absolutely useless in the Stevens investigation and in the Jerome case, and every other case. I will assume that you will show that he made all sorts of mistakes. It doesn't make any difference. It is perfectly simple to call attention to errors here. It does not help us any. I never have been in sympathy with that kind of cross-examination which grills David Carvalho for an hour to show that some jury did not agree with him in some conclusion that he

reached in some other case. Point out to me where Mr. Teele is wrong here. I don't care where he has been wrong elsewhere.

Mr. O'Brien: Your Honor is assuming that I have made an audit of these books when you say that I should point out the errors that he has made.

The Master: You and your men have had opportunity to examine these books for six months.

Mr. O'Brien: That is not correct.

The Master: How long?

19793 Mr. O'Brien: I beg your pardon, we cannot get the papers and records today that we want. What is the use of saying that?

The Master: Don't let us argue it any more. I have made my ruling.

Mr. O'Brien: Didn't I have to fight the other night to try to get them to bring papers down to court.

The Master: Mr. O'Brien, I have made my ruling, and I do not expect any more questions.

Mr. O'Brien: I will not trespass again on the line that you have ruled on with respect to bias and his qualification, his lack of capacity to come

19794 in here and give—

The Master: I have gone further than that. I have directed you to proceed with the cross-examination of the exhibits offered in evidence.

Mr. O'Brien: What I wanted to say about the Stevens Investigating Committee, which was particularly brought into this case by counsel for the complainant, was the question as to how far he went at that time to qualify himself here, what knowledge he had at that time, and whether the statements and figures that he prepared at that time tally with the work that he is doing now. All that would be proper.

The Master: I don't care about that. This business of a man being an expert to give a table of figures is perfectly ridiculous. I am not an expert, I never took an accountancy course anywhere, but I venture to say that if these books are intelligently written I can prepare the tabulations myself. There isn't any such thing as an expert on a question of arithmetic. Mr. Teele may not like what I say, but that is my view of it.

Mr. O'Brien: The complainant company must have had something in mind as to additional qualifications when they dispensed with Mr. Brundage, the man who has been handling this, and brought him in here. 19796

The Master: But I didn't agree with their line of examination at all. I let them go on with it because they thought it was proper.

Mr. O'Brien: It is in the record and I want to controvert it.

The Master: Proceed with the cross-examination as to the matters in issue.

Q. Mr. Teele, did you make an audit of the company's books for 1918 and 1919, which you term an audit? 19797

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

Q. What do you mean by an audit?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

Mr. O'Brien: Your Honor, I beg an explanation on this.

The Master: I have told you I would let you ask questions directly bearing on these exhibits, and I won't allow anything else. You will save yourself time, and you will save yourself trouble.

You won't get an answer to a question if it is not what I want you to ask, will you? Now, why not be reasonable about the thing? I have told you over and over again that I shall direct you to ask questions directly bearing on the exhibits.

Mr. O'Brien: Your Honor, in regard to the question I just put to the witness, you have assumed that that is a perfunctory question. Now, the question is not.

The Master: I do not assume anything.

Mr. O'Brien: I wanted to examine this wit-
19799 ness as to the methods that he has pursued in going into these books.

The Master: I won't allow you to.

Mr. O'Brien: I want to ask him whether he has made an audit.

The Master: I won't allow you to.

Mr. O'Brien: I want to ask him what he means by an audit.

The Master: I won't allow it.

Mr. O'Brien: I want in that connection to tell your Honor that there is no place in this record where he states he has made an audit, although Judge Ransom did embrace that word in one of
19800 the questions he has put to him.

The Master: I do not want—haven't I made myself perfectly clear to you? This witness has testified that certain—

Mr. O'Brien: Will your Honor permit me to make my record? I cannot do it by asking a blanket question and having you rule on it.

The Master: You cannot make a record any better than that, and I have told you in distinct terms that I won't let you ask a single question which does not bear directly upon the exhibits

offered in evidence and identified by this witness, and you took your exception to that. Can you have a better record? What is the use wasting time. When I have reached a conclusion, you ought to know by this time that I won't change my conclusion, I am going to insist on it and carry it out.

Mr. O'Brien: I don't know how far that is going to affect the concrete questions I am going to ask.

The Master: I do not either, but I know this, that when Mr. Chambers was cross-examining 19802
he asked about generator coal and generator coke, and he got as far as boiler fuel and labor and cartage on that, and when I indicated that I would not allow you to go over the same ground again, Mr. Chambers deliberately passed certain items on the Exhibit 364, and said, "I am going to leave that to Mr. O'Brien," and I expect you, Mr. O'Brien, to take that up where Mr. Chambers left off, and unless your questions relate to those items or other items not covered by Mr. Chambers on these exhibits, I will not let you ask the questions.

Mr. O'Brien: What I want to do, and what I 19803
insist is my right to do, is to find out just what the plan and scope of his examination of these books was.

The Master: That I won't allow.

Mr. O'Brien: What directions he got from Mr. Carter or some other officer of the company.

The Master: That I won't allow.

Mr. O'Brien: As to what he was to omit, and what to include.

The Master: That I won't allow.

19804 Arthur W. Teele, Cross.

Mr. O'Brien: What the scope of the work was, whether he would call it an audit.

The Master: I won't allow it.

Mr. O'Brien: That can be disposed of in two or three questions.

The Master: I won't allow it.

Mr. O'Brien: Then I want to proceed with the nature of the way in which he set about that work.

The Master: I won't allow it.

Mr. O'Brien: And that does not take up a
19805 whole lot of time.

The Master: But I won't allow it, if it takes but two minutes, so what is the use arguing with me. It is already on the record, you have the exception, and what more can you have? What is the use asking the questions?

Q. In connection with your work for the complainant company, Mr. Teele, did you make an audit of the books of the affiliated companies, particularly the New Amsterdam Gas Company, the New York Mutual Company, the Standard Company and the Astoria Company?

The Master: Objection sustained. I again
19806 repeat, Mr. O'Brien, that no question is proper, in view of my rulings except one bearing upon the items in these exhibits.

Mr. O'Brien: Exception. I am coming to that, your Honor.

The Master: I want you to get to it, not coming to it.

Mr. O'Brien: If I may take up each one of these companies and later on come in and ask him what he did in connection with them—I am trying in that very question to cover some ground.

The Master: It may very well be that somewhere and somehow, as bearing upon some items there, it may be necessary for you to go outside of what I have indicated, but only when it is necessary, in my judgment, in order to make clear a point that you are trying to make, will I permit it. Now, what is the use?

Q. In the examination of the complainant's books, Mr. Teele, did you find any particular rule followed as to what items of account were journalized, and what were not?

The Master: Answer that. 19808

A. All transactions are journalized other than those which are contained in the sundry debtors—well, that is journalized also. Other than those contained in the record of approved vouchers. I think all other transactions are reduced to a journal entry for the purpose of posting.

Q. Well, is that a conclusion—

A. The postings from the cash book are made direct also. My recollection is that they are not journalized.

Q. Well, then, you confine those that are not journalized to approved vouchers and—

A. The record of approved vouchers, where the 19809
postings are made on the credit side to the sundry creditors' ledger in detail, and to sundry creditors' control account in the operating ledger *in toto* and in the opposite side to the accounts indicated to be charged as shown by the record of approved vouchers. Those postings, the summary of that record of approved invoices, does not pass through the journal. The sundry debtors' blotter, the posting is made—the sundry debtors' blotter is summarized and reduced to a journal entry each month, the total being posted

to the debit of sundry debtors in the operating sundry debtors' control account in the operating ledger, and the credits being posted to the several accounts as indicated by the journal entry made on the operating journal.

Q. Well, how is the purchase of merchandise handled?

A. In what way do you mean?

Q. Is that on vouchers approved, and therefore not journalized?

A. It is not journalized. The purchase of ma-
19811 terial, all invoices for the material purchased are entered on the record of approved invoices, and they pass to the credit of the creditors' account in the sundry creditors' detail ledger, the total of that passing to the credit of the sundry creditors' control account in the operating ledger. The accounts charged with the charges as shown by the invoices are set forth in the sheets of the approved invoice record, and the items are posted from that record direct to the debit of such accounts as are carried in the operating ledger.

Q. Well, briefly stated, what function does that journal fill for the purposes of these books?

19812 Mr. Ransom: Objected to; that has been fully covered, I think.

The Master: I will let this witness answer the question.

A. The journal in all cases is a book used in the system of double entry bookkeeping for reducing transactions to the record of accounts to be debited and to be credited, and is supplemented, or the entries therein are supplemented by a record describing the transaction and the reason for debiting and crediting of various ledger accounts.

Q. Well then, there are a large number of accounts that reach the ledger independently of the journal?

A. There are a large number of entries, not a large number of accounts; a large number of entries.

Q. Yes, a large number of entries independently of the journal?

A. All posting mediums, Mr. O'Brien, are journals.

Q. I am talking about this one here?

A. You mean independently here of the operating journal?

Q. Yes. 19814

A. Because all posting mediums are journals.

Q. I am asking you now—

The Master: Don't get into that. He means the operating journal, that is what we all mean here.

Q. Not some other company, but this company?

A. There are entries made in the operating ledger exclusive of those made from the operating journal.

The Master: Quite a number of them.

Q. And there are items of expenditure, a great many of them, that we get in the operating ledger without going through the journal? 19815

A. Yes, many of them aside from the record of approved invoices. There is also a distribution of the pay rolls, which does not go through the journal entry. That does not go through the operating journal.

Q. Now, in examining these books, have your men made blue and red check marks on them opposite various items?

A. Yes, I believe they have put various kinds of check marks.

Q. And have they used a blue pencil and a red pencil in their work on these books?

A. Yes, I believe they have.

Q. Two dashes opposite each item would mean they have been over it?

A. I do not recall what detailed instructions were given to the men that were doing the check work, because they were given by—those detail instructions, as to how to check mark postings or check mark vouchers were given generally.

Q. Well, you have been over these books your-
19817 self?

A. Oh, yes; I have been over many of them. I have not used a blue or red pencil in any case that I recall. I may have occasionally.

Q. But you have seen blue check marks opposite very many items, haven't you, column after column?

A. Yes, I presume I have seen them.

Q. And red check marks?

A. I pay little attention to check marks when I am looking at books of account.

Q. Well, you know your own men's markings, don't you?

A. Unless looking up for a specific purpose.

19818 Q. But your men have some purpose in making these check marks opposite these items?

A. Mr. O'Brien, with all the people that have been examining these accounts, you or I or nobody else could identify the check marks on them.

Mr. Ransom: I object. There have been check marks put on by various people.

Q. Take this account here, Mr. Teele, of "Repairs to Works, Tools," page 666 of Ledger B for 1918; that will illustrate what I mean. There are blue marks.

The Master: Get up and look at it, Mr. Teele, and before you answer take the witness chair.

Mr. O'Brien: You see those marks all the way through various books of the company.

A. What you call two marks I should call one. That is what I know as a double-tick check. It is made with a single stroke of the pencil.

Q. Is that some symbol that your men use?

A. We do use a check mark of that kind in checking, for various purposes.

The Master: Other accountants do, too? 19820

The Witness: Other accountants do, too.

The Master: Would you know whether it was your men or some other men that made that mark?

The Witness. I could not positively swear that it was made by my men at this time.

Q. Have your men got some directions from you?

The Master: What is the purpose of this?

Mr. Ransom: I object to the question as immaterial. There are a lot of marks made on these books by Mr. Teele's men, the Public Service Commission's men, and other men.

Mr. O'Brien: Are there any marks made on 19821
these books by other men? Will you point them out?

Mr. Ransom: Yes.

The Master: What is the point of this?

Mr. O'Brien: I want to know, if we find these check marks on certain accounts and not on others, whether they passed over the other accounts.

The Master: Ask him that. Mr. O'Brien wants to know whether, if he finds blue or red

check marks, you looked at them, and if he does not find those check marks you did not.

The Witness: It does not indicate that.

The Master: Next question.

Q. Then there was not any plan as regards the use of blue and red check marks on these accounts between you and your men?

A. My recollection is that the check marks that were put on there were the check marks used in checking postings from the journals, and other posting mediums, to the operating ledger.

19823 Q. You have been in court ever since this case started, have you not?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: I want to say right here, your Honor, that I propose to ask the witness how many days since July 15th he has spent personally himself in court; how many days he has been on the work of this company by actually going to the books; what men, and all men, have been doing the work since he last testified as to Mr. Moeran and his associates being engaged in this work, and the scope of their work, to show

19824 your Honor, and make this record show that the work that he says was done in the shape of an examination of the accounts and vouchers in connection with the accounts of this company is beyond human possibility.

The Master: I will assume that questions have been asked on the lines indicated by counsel, and, the questions having been asked, objection to them is sustained. I will not permit that inquiry.

Mr. O'Brien: One of the purposes, of course, of that examination is to show the utter unre-

liability of the computations made by the witness, where they are computations; and again, to show that he has assumed figures with respect to the affiliated companies, where there were transactions between the complainant and the affiliated companies, without going back of them to verify them.

The Master: I think that is clear enough on the record. Next question.

Q. Mr. Teele, in connection with the plan of your work for the complainant company were you given explicit directions— 19826

The Master: Mr. O'Brien, I do not want another question of that kind asked.

Mr. O'Brien: Wait until you hear the question, your Honor.

The Master: I must have some power to enforce my rulings.

Mr. O'Brien: I will bow to your rulings, your Honor, but—

The Master: It has got to stop.

Mr. O'Brien: When you hear the question finished you can make a ruling on it.

The Master: But I do not want any more questions of that kind asked. I do not want the 19827 time wasted.

Mr. O'Brien: Here is the point I want to bring out by this question—you can make your ruling and I will pass on to the next branch of my examination.

The Master: Ask him that question, then. I am going to see if by any possibility—

Q. What instructions, if any, did you receive from the representative of the complainant with whom you made a contract for your work, as to the inclusion

within the receipts of the complainant company of certain moneys in the shape of profits, or revenues or payments, and what moneys you were to exclude from these accounts?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: In that connection, your Honor, the question is designed to go to the proposition as to whether the witness used his judgment on the inclusion of non-operating revenues, non-gas revenues, or whether he took it from somebody

19829 else.

The Master: The ruling stands. I do not care whether to took it himself or from somebody else. If he has excluded anything, show it to me; if he has included something else, show me that. I do not care whether he got instructions; let us get to it. Let us find out what the answer to this problem is that is put up to me by these pleadings. What exhibit are you looking at now?

Mr. O'Brien: 205.

Q. Turning your attention to Schedule 1, Mr. Teele, "Sales of Gas"—

19830 A. (Interposing.) What exhibit, please?

Mr. O'Brien: I gave your Honor the wrong one.

The Master: 1918?

Mr. O'Brien: 1918.

The Master: Exhibit 205.

Q. Did you take the sum total of the reading of the meters in Schedule 1 for the year, expressed in cubic feet, directly from the books, or did you make your own additions?

A. What are you referring to, please?

Q. Schedule 1 of the sales of gas for 1918.

The Master: The exhibit is 205.

A. Will you please repeat that question?

Q. I will finish it, Mr. Teele. Did you take for the purpose of this schedule the total amount of cubic feet of gas for each one of these stations or branches, directly in that amount from the books of the company, or did you make your own additions of the returns from month to month as shown in the books?

Mr. Ransom: I think that has been fully covered. 19832

The Master: I do not recall it, so that I will allow it. Unless my mind is clear about its being covered, I will allow the question.

A. The figures shown here as the sales of gas are the figures shown by the operating ledger and the accounts as previously stated; the figures shown on the operating ledger accounts have been verified against the reports of sales made by the superintendents of the respective branches, and those branch reports have been tested as I have previously testified to, in 1918.

Q. Was this figure, to illustrate, for Hester Street of two billion odd cubic feet for the year 1918 taken as such directly from the books? 19833

A. No, only the dollars are shown on the books. The cubic feet are shown on the reports, on the monthly reports.

Q. Are the cubic feet shown in the journal?

A. Without referring to the individual journal entries, I do not now recall; but in any event, whether shown in the journal or not, we compiled them from the reports.

Q. You took the amount as shown in the books and you went back to what, to find out how many cubic feet of gas that represented?

A. What I have said.

Q. Back to the reports?

A. To the reports.

Q. Is there an annual report that sums up all the monthly reports of the several branches?

A. There is an annual report, yes.

Q. Did you take that for the purposes of getting this figure?

A. I did not.

Q. Of 2,412,770,000?

A. I did not. I never saw it until after this sched-

19835 ule was completed.

Q. You mean that some of your men put these figures together?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: I am mystified by the answer of the witness.

The Master: I am not. Objection sustained.

Mr. O'Brien: He says he never saw this.

The Witness: I will make it clear.

The Master: He said he never saw the annual report, about which you have asked him, until after this was finished.

19836 Q. Mr. Teele, for the purposes of the verification of these meter readings embodied in sales of gas on Schedule 1, did you or your men make any other tests of the underlying papers or data than you testified to in your direct-examination?

The Master: That objection is sustained, upon the ground that he has been the last five minutes telling you what he has done.

Mr. Ransom: He has gone into it in much greater detail on direct and on the preliminary cross.

Mr. O'Brien: He says on page 2091 that he took 350 index readings at one of the branch offices, and that would seem to be the full scope of the test he made. Now I am asking the witness the general question, bringing it down to date so that we may know whether that stands as the amount of testing of those index readings.

The Master: All right. Other than as you have testified, Mr. Teele, did you make any other tests for accuracy?

The Witness: For 1918?

The Master: Yes. 19838

The Witness: No. I have in 1919.

The Master: Next question.

Q. When you testified you made these 350 index readings on page 2091, at one of the branch offices, can you recall what one that was?

A. Which branch office?

Q. Yes.

A. 2084 Third Avenue.

Q. Would it not, where there was such a large sale of gas as that of the complainant for the year 1918, have been necessary to have carried your tests over to other stations, other branches, in order to make them adequate for the purpose of determining the 19839 reliability of the accounts?

A. I did not so consider it; nor do I consider it necessary to go beyond this point in a corporation of this size.

Q. You think in your opinion that is sufficient?

A. That is my judgment, that it is not necessary.

Q. Did you find in the accounts for gas sold that are not taken care of by the branch office—did you find them all embodied in this item here of 173,000,000 for the general office?

A. I do not understand that question, Mr. O'Brien.

Q. Well, did you yourself, or did any of your men, make a special examination of the sales that are taken care of at the main office?

Mr. Ransom: Objected to as fully covered on preliminary cross-examination.

The Master: I will allow it.

Mr. Ransom: The matter of general office sales was fully gone into.

The Master: Answer the question, Mr. Teele.

The Witness: Answer the question?

The Master: Yes.

19841 A. Yes, we did check the sales recorded as general office sales, by going back to the original meter readings and checking a series of the original meter readings to the sheets upon which those readings are reported to the general office, and checking the readings shown there to the blotters kept at the general office.

Q. You do not mean you went back on all these accounts; you mean you made some tests of them?

A. In 1918, without referring to my working sheet, I can not say, but I think we checked all of them in 1918 on the general office sales.

Q. Have you got your working sheet here?

19842 A. Mr. Moeran, have you my audit sheet on the general office sales? There is a limited number of accounts there. There are less than a hundred. I am quite sure I have not those papers in court.

The Master: Mr. O'Brien, the witness says he hasn't got them.

The Witness: My recollection on these general office sales is that we checked a considerable number of the original meter readings, and that we checked all of the reports made by the branch offices to the general office with respect to those

readings, and went back into the original meter books, index books, in a considerable number of them, but not for every month.

Q. You mean a considerable number of these general office accounts?

A. Yes, of these general office accounts.

Q. Is this figure of $138,000 plus, is that put in a special account in the operating ledger?

A. These total sales appear upon Ledger Folio 1133, including all sales.

Q. Is there a separate account anywhere in the books of the company covering the sales taken care of 19844
at the general office?

Mr. Ransom: Objected to; the books speak for themselves.

The Master: I will let the witness say.

A. I have forgotten whether there is a separate column there or not. Let me have Operating Ledger A for 1918.

Q. Will you state that you don't know, Mr. Teele, if you don't.

The Master: Without referring to the book the witness says he don't recall.

A. It is all included in one account in the operating ledger. 19845

Mr. O'Brien: I didn't ask you that, you might as well answer my question.

Will the stenographer read the question.

(Question read by the stenographer.)

Mr. Ransom: He says it is all included in one account.

A. I think my answer is a direct answer to your question.

By the Master:

Q. Mr. Teele, I have just been looking at page 1133. I see that the only entry practically in sum-

dry consumers, referring to voucher or journal entry numbers?

A. Yes, sir.

Q. The last column is, "Commercial Metered Gas." Is it included in there?

A. It is included in that.

Q. How can Mr. O'Brien find where you got your figures?

A. By going back to the journal entry from which that entry is posted.

Q. Now, let us see Journal Entry No. 1071, for
19847 December, 1918.

(Book produced.)

Q. When I look at Exhibit 191, I find Journal Entry No. 1071 which, among other things, gives "General Office, $19,906.27." Is that part of the $138,000 included in your Exhibit No. 205?

A. Yes.

Q. Where does that figure of $19,906.27 come from?

A. It is taken from the monthly reports by the branch offices of the gas sales.

Q. That refers to all of these items here?

A. Those are the reports which underlie all of these
19848 gas sales entries.

Q. Underlying the report of the general office sales are the meter readings, index readings?

A. Underlying the reports of the general office sales is the report from each branch office showing the reading of each meter included as general office sales. There is a limited number of them, less than 100.

By Mr. O'Brien:

Q. Mr. Teele, you have stated that the total of gas sales on 1133 of the ledger refers to the journal, that that total on 1133 does not indicate a separate item for the general office sales, and referring to the

journal you have found several items spread forth under No. 1071 that include the several branch offices and then the general office item of $19,906.27. Where does that item come into the journal from?

The Master: Objection sustained. The witness has already told us.

Mr. O'Brien: Exception.

Q. Is there any cross-reference in the journal that indicates where the item for general office sales comes from?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained. 19850

Mr. O'Brien: Exception.

Q. Then there is not a separate account on the operating ledger covering sales that are called general office sales?

The Master: Objection sustained.

Mr. O'Brien: Exception. Your Honor assumes from the statement made by the witness that in some way it is carried in in the monthly reports, but that does not make it clear. It would dispense with this matter for the time being if we could get a statement from the witness.

The Master: No, I will not allow the question. 19851

Q. Mr. Teele, did the branch office reports of sales each month contain separately segregated the amounts of sales and quantity of gas included in them that are chargeable to the general office sales?

The Master: Objection sustained. The witness has already said they did.

Mr. O'Brien: Exception.

Q. When you checked up your sales for the various branch offices with the monthly reports of the

managers of the branch office did you use the journal entries of gas sales to verify the figures?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Were the figures for the item entitled, "Municipal Lighting" taken directly in this amount from the operating ledger?

The Master: Objection sustained upon the ground that I understand the witness's testimony to be that the amounts on Schedule 1, which includes the municipal lighting, were taken from
19853 the ledger and checked back to the original sources to make sure they were correct.

Mr. O'Brien: We have found that they were not in the ledger.

The Master: What is not in the ledger?

Mr. O'Brien: This Commercial Meter Lighting.

The Master: Yes, it is.

Mr. O'Brien: It is included in the total amount. He separated it.

The Master: Of course he did.

Mr. O'Brien: 1133 will show that.

The Master: 1133 shows different columns,
19854 Commercial Lighting Municipal, Prepaid.

Q. Mr. Teele, will you look at page 1133 and tell me whether or not there are any statements there of the amount of gas included under the term, "Municipal Lighting"?

The Master: Objection sustained.

Q. How did you figure out the amount of gas under the title, "Municipal Lighting"?

The Master: Mr. O'Brien, before I rule on that I want to ask you this: Schedule 1 of Exhibit 205, prepared by this witness, sets forth the amount in cubic feet and in dollars of sales

19855

of gas during the year 1918, at 80 cents. Likewise, municipal lighting, public buildings and street lamps, and also prepaid gas at the various branches. Is it your contention that this witness's statement that the books show these figures is not correct, and if so in what particular?

Mr. O'Brien: I am making no contention at this time. I am cross-examining the witness within my rights.

The Master: Objection sustained.

Mr. O'Brien: I am cross-examining this witness to find out where he got these figures from, and what steps he took to determine their reliability.

19856

The Master: Objection sustained. The Master rules that in view of the opportunity afforded counsel for the defendant to examine the books and records and these tabulations, that the Master will not permit cross-examination except as to items which counsel claims are incorrect, and points out the error or claim of inaccuracy.

Mr. O'Brien: Then your Honor takes the position that it is necessary in a rate case for the defendants to go into an examination of the books before they cross-examine a witness and be prepared to come in and say where they differ with the witness?

19857

The Master: You have heard my ruling.

Mr. O'Brien: I certainly take an exception to that ruling.

The Master: I supposed you would.

Mr. O'Brien: And I urge upon your Honor the error in which you fall by making that ruling.

The Master: You will not suffer from the ruling.

19858 Arthur W. Teele, Cross.

Mr. Chambers: Yes, we will suffer, if it is erroneous.

The Master: How will you suffer if it is erroneous? If it is erroneous you reverse my judgment.

Mr. Chambers: That is very expensive, to reverse the party who makes the error. It falls on the litigants and not on the court.

Mr. O'Brien: This is the same question that your Honor raises now that came up with respect to your ruling as to Exhibit 366, in which you di-

19859 rected us to proceed to meet the employees of Mr. Teele, an accountant employed by the complainant company and go over with them computations that they have made, to find out whether or not those figures are correct. I say it is a serious error in the case, and for the defendant Edward Swann we do not intend to follow your Honor's direction in that regard and abide by your ruling with respect to our compulsion to come in here and state during cross-examination of a witness wherein we agree or disagree with the witness and his figures. I respectfully except to your Honor's ruling.

19860 Q. Where did you get the quantity of gas set forth on Schedule 1, as sold to the municipality?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Did you follow any check at all, or pursue any investigation, Mr. Teele, that might lead to a determination as to whether or not the reports made monthly by branch office managers of the gas sold were correct?

The Master: Objection sustained on the ground that the subject has been fully covered.

Mr. O'Brien: Exception.

Q. In connection with the rents from gas appliances as shown on Schedule 2, Mr. Teele, will you state how many contracts you examined in the two branches that you went into?

The Master: Is there any question as to the accuracy of this figure appearing on the books, Mr. O'Brien? I am prepared to rule out the question on the ground that it is sufficiently covered anyhow, but unless you will tell me that you contend that this figure is wrong, I am going to rule it out on that ground too.

Mr. O'Brien: I am going into the question of 19862
his examination of these books to show you the various points in connection with it.

The Master: On this question, the objection will be sustained.

Mr. O'Brien: I call your Honor's attention to page 2126 of the record, wherein you said:

"The Master: What did you do with reference to comparing or examining accounts showing the amount of revenue from gas appliances 1918, title 440, uniform accounts.

"The Witness: I compared the entries in Ledger Folio 1138 with the monthly reports rendered by the branch offices. 19863

"Q. All of the reports of all of the branches?

"A. All of the monthly reports from all the branch offices. And I compared—I will put it another way. I compared the entries in Folio 738 with the entries in the journal from which such entries had been posted into the ledger, and I have compared the entries occurring in the accounts of rents from gas appliances suspense, with the reports made from the monthly branch offices, and I have compared the entries made in the branch offices with the reports made to the general office monthly, and I have gone back to orig-

inal contracts, or rental charges made and entered upon the consumers' ledger, and abstracted or taken from the consumers' ledger and summarized in the consumption book, and from there carried to the total of their proved tickets and embodied in their monthly reports to the general office."

Now, what I want to find out—it goes on there with several other questions.

The Master: You said what you wanted to find out.

Mr. O'Brien: On page 2137, you put the question:

19865 "The Master: To what extent?

"The Witness: I looked at them in both the 15th Street office and at Branch 6, No. 2084 Third Avenue.

"The Master: To what extent?

"The Witness: Three or four contracts in the 15th Street office and several contracts in the Third Avenue office."

The Master: Yes.

Mr. O'Brien: Now, what I want to find out is, whether he went into any of the other offices, how far his tests went.

19866 The Master: Objection sustained.

Mr. O'Brien: Exception.

The Master: When the witness tells me he went into two branch offices, I assume he did not go into any more. When he said he looked at two or three contracts in one branch office, I assume he did not examine any more, and there is no use asking if he examined more.

Q. Did you assume that was a sufficient test to test the reliability of the records of the company as to rental from appliances?

A. I did.

The Master: I let him answer that just to show you how perfectly hopeless that kind of a question is. Did you suppose for a minute that he was going to say no, that he had done less than he should have done?

Mr. O'Brien: Your Honor, I am not going to debate this matter with you. I have a number of questions to ask this witness, and you may rule them out or rule them in, but I have got to make my record, and I have my own purpose in asking these questions, and I respectfully assert that I should not be held up, when I ask a question, by the Master saying, "Do you dispute the figures on this schedule?" 19868

The Master: Next question.

Q. How many contracts were there in each branch corresponding to the figures shown on Schedule 2?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. How many did you find at 15th Street?

Mr. Ransom: Same objection.

The Master: Objection sustained.

Q. Did you count the number of 15th Street?

Mr. Ransom: Same objection. 19869

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. How could you tell that an examination of three or four contracts was a sufficient check?

Mr. Ransom: Same objection.

The Master: Same ruling.

Q. Are there not, Mr. Teele, or are you not able to say from your examination of the papers and records and books of the company that there are several hundred kinds of appliances?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. What types of appliances did you find in the checks that you say you made as on page 2127 of the record?

Mr. Ransom: Same objection.

The Master: Same ruling.

Mr. O'Brien: This goes to the question of the adequacy of the tests made by the witness.

The Master: Yes, I know it does, and I am ruling it out.

19871 Q. What total amount in rentals was represented in the check that you made at these two branch offices?

The Master: Same ruling.

Q. What per cent is this total amount of the rentals included in the check you made to the total rental as shown on Schedule 2?

The Master: Same ruling.

Mr. O'Brien: Your Honor, I would like to know what is in your mind. You are taking the witness's testimony for what it is worth.

The Master: I have made so many statements on it that I do not think I will make any more. I will rule just as you have told me to do.

19872 Q. Mr. Teele, in the tests that you did make, what steps did you take to determine the rental rate for the various appliances?

The Master: Objection sustained.

Mr. O'Brien: Here we have a great many different appliances, your Honor, different rates.

The Master: I understand.

Mr. O'Brien: I respectfully submit it is proper for me to ask the witness as to the tests he made.

The Master: No.

Mr. O'Brien: Well, I won't stop on the im-

portance of the matter or the seriousness of the ruling.

The Master: No.

Q. Mr. Teele, from the examination that you have made of the records and books of the company, can you say that a uniform rental was charged by each branch for the same appliances?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Can you say that the charges billed by the various branches to the different consumers were the same in every case for the same appliance? 19874

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Is it not possible to obtain from the company's books a classified summary of those rentals according to the different kinds of appliances rendered each year?

The Master: Same ruling.

Q. Is it or is it not possible, Mr. Teele, to obtain such a summary?

The Master: Same ruling.

Mr. O'Brien: This goes to the question as to how they kept the books, your Honor, on appliances. 19875

The Master: I won't change my ruling.

Mr. O'Brien: Exception.

Q. Will you say that the company keeps any record from which it may be determined what is the total rental received for the several classes of appliances?

The Master: Same ruling.

Q. In your examination of the rental accounts, did you not find that there were many items of deductions from rentals?

Mr. Ransom: I object to the question as too vague.

The Master: I will sustain the objection, but not on the ground it is too vague. I think I understand the question.

Q. What did these deductions made from the rentals represent?

Mr. Ransom: Objection.

The Master: Objection sustained.

Mr. O'Brien: Exception.

The Master: Isn't it your contention that they
19877 ought not to be in the gas appliance business at all? That they ought not to rent out any gas appliances?

Mr. O'Brien: Our contention with respect to that is partly as represented by your Honor. Our contention is that this is extraneous to the gas making business.

The Master: Yes.

Mr. O'Brien: If it is to be included in the gas making business then the accounts of all the expenses that enter into this business should be separated and segregated so that you may know all of the expenses and determine therefrom the
19878 receipts, the revenue that is derived from business or the loss, if there is a loss.

The Master: The Gas Company claims that it shows a profit in this branch of the business.

Mr. O'Brien: Well, that is not borne out by the figures.

Mr. Ransom: The Corporation Counsel claims that it is.

Mr. O'Brien: The Corporation Counsel has already announced this morning where he stands on the question of being compelled to come in

here and state where he disagrees with a witness for the purpose of cross-examination.

The Master: Next question.

Mr. O'Brien: He has made that perfectly clear, Judge.

The Master: You won't get anywhere by argument.

Mr. O'Brien: I don't think the Judge will pluck out any kind of information from me on an inquiry of that kind.

The Master: Next question.

Q. Mr. Teele, did you look into any of these cancellations to learn the reason covered by the deductions from rentals? 19880

The Master: Objection sustained.

Q. (Continuing.) To learn—

Mr. O'Brien: Your Honor will permit me to finish my inquiry.

The Master: I thought you had.

Q. (Continuing.) To learn the reasons for such allowances?

Mr. Ransom: Objection.

The Master: Are you finished now?

Mr. O'Brien: Yes.

The Master: Objection sustained. 19881

Q. Can you state, Mr. Teele, directly or from any papers that you may have at your disposal in court, how much these deductions amounted to, as shown by the books for the year 1918?

The Master: Objection sustained.

Q. Was all of this deduction of $124,000 applicable to the year 1918?

The Master: Same ruling.

Q. Will you find these deductions in the books of the company now in court?

19882 Arthur W. Teele, Cross.

The Master: Same ruling. Now, the Master states that Mr. O'Brien, by his series of questions, objections to which have been sustained because they were not properly put, has indicated that his contention is that the figures given on Schedule 2 of $963,511.21 is not correct, in that the witness Teele in giving that figure has allowed deductions which were made on the books against rent received from gas appliances. In view of the claim now indicated by counsel for the defendant Swann, I will let this witness say how
19883 he arrived at the $963,511.21, and state whether those are gross rents received or net rents received, and if there is a deduction there for allowances to consumers, to explain to Mr. O'Brien what he found with reference to that. Do you follow me, or did I get too involved?

The Witness: I think I followed you.

The Master: Go ahead: If you had told me at the start what you had in mind I would have let you bring it out, and I let you go ahead just as I did to show you that you have got to show me, if you want to bring it out. You could have done it in one or two questions, you know.

19884 Mr. O'Brien: Can't you see, your Honor, the injustice that will flow from your ruling?

The Master: No. It is justice. If, when I had asked you, you had said, "This is my point, they give us here $943,000 and here is one hundred and twenty odd thousand dollars rebated to customers which we think ought to be added to that, and what I want to do is to bring out from this witness what that is"—instead of that you asked the questions until I got the drift of it.

Mr. O'Brien: I started to say, your Honor, can't you see the injustice that flows from your

ruling when I tell you this, that you made the general ruling that I am compelled to state in the cross-examination of the witness whether I disagree with him as to any items, and to point out the errors that I say I disagree with him on?

The Master: Yes. I say that there is no injustice in that.

Mr. O'Brien: Now, it involves three or four unfair propositions, so far as a rate case is concerned.

The Master: No. 19886

Mr. O'Brien: One of them is this, as I have pointed out yesterday, that in effect it throws the burden of proof on us. Now, just as Mr. Teele with his large force of twenty men might find the time given him inadequate to go into all the details, he has got to depend upon certain tests made, and your Honor has put us in the position, and Judge Ransom says, "Yea, yea" to the ruling, of coming in here and saying—giving a bill of particulars—the defendant giving the complainant a bill of particulars as to where he disagrees with him, and Mr. Ransom is all ready to say, "Well, that is all the errors that they could 19887 find, what they pointed out." In other words, assuming from the fact that we may ask a few questions about some errors, that we are silent as to all the others, and our silence means we found the rest of the accounts correct.

The Master: All right.

Mr. O'Brien: Well, that would be entirely unfair.

The Master: I am not going to let you go into a cross-examination and ask him a lot of ques-

tions unless you tell me what your point is. Now, answer the question.

The Witness: The net amount of rents—

Q. Just a minute, Mr. Teele. From whom did you get the paper that you are now reading from?

A. My assistant, Mr. Moeran.

Q. And Mr. Moeran spoke to you when he came there?

A. He called my attention to the second sheet.

Q. And what did he say?

A. To tell you the truth I did not catch what he
19889 did say. I am looking to see.

Mr. O'Brien: Your Honor, I am going to object to Mr. Moeran speaking to or handing the witness anything, and I am going to show you before I get through, if you have not been convinced of it already, that the witness doesn't know anything about these books, he is so busy a man in his own business as the director of a big firm of accountants, that he has been so constantly in court, that he of necessity can not know anything about it.

The Master: That is a matter of argument later on.

19890 Mr. O'Brien: I am going to object to this Mr. Moeran coming in unless he goes on this witness stand.

The Master: But you did object once, you don't have to do it twice.

Mr. O'Brien: Sneaking up here while I am engaged in an argument with your Honor, behind by back, and handing this witness a paper. I am going to test his memory on some of these things, and his knowledge.

The Master: Have you got your working

sheet to indicate, Mr. Teele, how that $963,511.21 is arrived at?

The Witness: I have the working sheet here.

Q. In whose handwriting is it?

A. It appears to be in the handwriting of one of my partners, Mr. Stumpfel.

Q. Did you ever see it before?

A. Yes, I have seen it before.

The Master: Mr. O'Brien, please let me get my question answered. How did you arrive at $963,511.21?

The Witness: $963,511.21 is the amount shown 19892
as rents from gas appliances on Ledger Folio No. 1138, and my investigation of the amount of revenues so credited in the books of the company showed me that this amount is an amount which is made up of amounts transferred monthly from rents of gas appliances suspense, to which is credited all the amounts reported from the commercial branch offices as rents collected by them; and the method of handling the account is that all rents as collected are credited to gas appliance rents suspense, and upon an estimated basis the company transfers to gas appliance rents revenue account monthly an amount based upon their 19893
gas sales, and at the end of the year, in December, they transfer the balance of the suspense account to the rents account, and that is done because of the fact that the rents are collected on a basis of the year running from April 1st to April 1st.

The Master: Now go ahead, Mr. O'Brien. Go back and ask those questions that I ruled out.

Mr. O'Brien: Perhaps I will go back too far, your Honor.

The Master: Let me see your list there and I will tell you where it is.

Mr. O'Brien: Do you want to confine it just to these deductions? If so, they would be the last three or four questions on that page (handing Master paper).

The Master: Yes.

Q. In your examination of the rental account—repeating a question I formerly put—did you not find that there were many items of deductions from rentals?

19895 A. I found that the monthly reports made by the branch superintendents show cancellations and in this matter of gas appliance rents we have relied upon the reports, the signed reports of the various branch superintendents, as to the amount of rents collected by them, because of the fact that such rents are traced through to the cash and accounted for in the cash.

Q. Is there any record of these deductions in the operating ledgers?

A. There is not, as I recall.

Q. Did you not refer to suspense account?

A. Yes.

Q. Would you not expect to find those deductions

19896 in some form in the operating ledger?

A. Not necessarily.

Q. Where would you expect to find them in a book of account—general books of account?

A. They are shown in the monthly report from the branch offices, in the deductions shown, and if the operating ledger account of the journal entry taking up and dealing with the branch offices' monthly reports deals with the net amount from the branches, then the deduction would not appear in the operating ledger. I can not say without referring to the ledger and the accounts whether they have been so dealt with. That is a detail that I do not now recall.

Q. I call your attention to page 1138 of the operating ledger, the gas appliance rents account, and ask you if these suspense items over in the credit columns represent such deductions?

A. (Examining book.) I should say that from this, without referring to the original papers, the items in the debit columns here coming from the branch cash reports represented refunds made by the branch cashiers on rentals of appliances cancelled and the appliance withdrawn from the consumer, and the company had refunded a portion of the rental which had been originally paid, the report of such refund coming through the branch cashier's cash report. 19898

By the Master:

Q. This $963,511.21, shown on your schedule 2 of Exhibit 205, is the balance of that account?

A. The net balance of that account.

Q. After crediting the account with the moneys received and debiting it with allowances and adjustments made?

A. Yes.

Q. That is what I asked you before.

A. The account is credited with the rentals collected and charged with these refunds made by the branch cashiers, and charged to this account, and the net balance of the account is written off to the revenue account monthly on an estimated basis, and at the end of the year it is adjusted to the cash. 19899

Q. What is that $963,511.21? Is that an estimate or an actual?

A. That is the actual rentals collected in the twelve months, less the amount of these readings.

Q. I get your point. It is very similar to the method of reporting income of receipts, rather than accruals?

A. Yes.

Q. For the period?

A. Yes.

Q. It is on the basis of actual receipts?

A. Actual receipts.

Q. Rather than accruals during the year?

A. Actual receipts, because the rental year runs from April 1st to April 1st. That has been fully explained both by Mr. Brundage and myself.

By Mr. O'Brien:

Q. Do you happen to know how rentals are paid, Mr. Teele, on rented appliances?

19901 A. How they are paid?

Q. Yes.

A. The first rental paid is for one year in advance, from the date of the rental of the appliance; the second rental paid is from the end of the first year up to the first of the following April, and thereafter on an annual basis.

Q. From what month?

The Master: From April 1st.

A. From April 1st.

Q. They are all, then, practically, while varying as to periods, all paid in advance?

A. Yes, they are paid in advance.

19902 Q. You turn to the suspense account and find these amounts there and see if I am not correct in my statement that the deductions are shown by the operating ledger.

The Master: Are not these allowances shown right here on the operating ledger?

Mr. Ransom: At page 1138.

A. These deductions are.

Mr. O'Brien: He does not know whether they are credits for that or something else.

The Witness: I do not know whether he is referring to these refunds made against rental

leases cancelled and the refund of the rental paid, or whether he is referring to cancellations made other than these.

The Master: What is it you have in mind?

Q. What kind of cancellations have you in mind?

The Master: Let me ask, Mr. O'Brien, what have you in mind by asking that last question?

Mr. O'Brien: The witness brings out the fact that he does not know these books as well as he thinks he does.

The Master: Nonsense.

Mr. O'Brien: What is that? 19904

The Master: That is nonsense.

Mr. O'Brien: Your Honor, he made a statement that there was not any record of these deductions in the operating ledger; that is the point—that he would have to look to the monthly reports. I want to show by the query just put to him that is in this book.

The Master: Yes.

Mr. O'Brien: Then I want to find out how far he went into it to find whether they were correct or not. I have asked him as to suspense.

The Master: I will not let him look it up. Ledger Page 1138 shows that deductions were 19905 made and credits allowed. What more do you want?

Mr. O'Brien: For some reason.

The Master: For some reason, yes.

Mr. Ransom: As the witness explained.

Mr. O'Brien: The record in the case will speak for itself. I have asked the witness now to turn to the suspense account and give me the total amount of deductions that have been made from rentals.

19906 Arthur W. Teele, Cross.

The Master: The Master refuses to allow it because it appears on page 1138.

Mr. O'Brien: Exception.

Q. Have you got any paper showing the total amount of these deductions, Mr. Teele?

The Master: Objection sustained.

Mr. O'Brien: Exception.

The Master: Page 1138 shows it. All it needs is to be figured up or added together.

Mr. O'Brien: It does not show it, your Honor. There are entries there that may be for some other

19907 purpose.

The Master: We will pass them along.

Mr. O'Brien: You see it refers to general suspense; each one of these items credited refers to general suspense.

The Master: What does general suspense refer to there, what folio? A journal entry of some kind?

The Witness: That is the journal entry, your Honor.

The Master: As to each suspense account here—

Mr. O'Brien: This is a journal entry number

19908 —not general suspense.

The Master: Each general suspense item refers to a journal entry number, does it not?

The Witness: Reference to the journal entry number appearing here in the reference column will show the general suspense account is debited and this account is credited with the amount shown in the ledger account.

Q. What general suspense account would me debited?

A. General suspense appliance rents. Just look at

the original journal entry, that is the quickest way to get it.

The Master: Mr. Teele, how far did you go into these items to determine the reason of the cancellations?

The Witness: I did not go behind the reports made by the branch superintendents, and the vouchers accompanying the cashier's disbursements.

Q. Would you say how much of this total amount of $124,000 was applicable to the year 1918?

A. No.

Q. Did you go into the question as to how far any 19910
of these entries might have been applicable to the year 1917?

A. No.

Q. Do you know where the amounts paid by people renting appliances, for labor and material—do you know where they are taken care of in the books of the company?

A. I do not understand your question.

Q. Do you know where the amounts of money paid by those who rent appliances, for labor and material, are taken care of in the books and records of the company?

A. The work done by the company for consumers, 19911
for which the consumer pays?

Q. Charge for labor and material, so called, that goes with the installation of every appliance?

A. The charge is made in the branch office against consumers for labor and material, charged against the consumers, and the cash collected is reported as being collected for that purpose.

Q. Are they included in the rents, or are they taken care of under some other heading?

A. They are not collected in the rents. They are not rents.

The Master: Then they are included in some other heading?

The Witness: They are included under some other heading.

The Master Where will they be found?

The Witness: My recollection is that they are credited, these minor sales of materials and so forth that are charged against consumers, to the materials and supplies in the commercial branch shops, for the sale of material out of that stock, and the charge would be made against the debtors
19913 in the commercial branch office, and where the cash is collected it will be credited there, all of which is set out in the monthly report made by the commercial branch superintendent to the general office.

Q. Do you mean by that every branch office has a shop?

A. I believe there is a shop in connection with the branch office.

Q. And do you mean that the commercial branch superintendent takes care of the accounts?

A. I do not know whether the shop is in direct connection with the branch office or what its physical
19914 arrangement is.

Q. You know that the company bills to a renter of an appliance the rental of the appliance plus a charge for labor and material in many instances, do you not?

A. I know that the branch superintendents report on their monthly reports material and labor charged against consumers, and that such charges are subsequently collected and the cash is reported as such.

Q. How is that set up in the operating ledger?

A. I think I have told you fully how it is covered in the reports made by the branch superintendents.

Q. Do you find it in the suspense account here—miscellaneous suspense?

A. Will I find it there?

Q. Can you find it; yes.

A. I do not think it is handled through that account at all.

Q. Can you put your finger on the account, on any one of those accounts in any operating journal or any page of the operating journal or operating ledger?

Mr. Ransom: Are you referring to rented appliances or sold appliances or what? The question is vague. 19916

Mr. O'Brien: No, it is not vague. The witness knows what I am after, Judge Ransom.

Mr. Ransom: I do not think you do.

The Witness: I do not think I do, Mr. O'Brien.

Mr. O'Brien: We have been talking together for five minutes about it.

The Master: We will take a recess until 11:30 A. M.

Recess.

Q. My question was, where in the accounts of the operating ledger or operating journal, or any book of account, is that receipt for labor and material in connection with appliances? 19917

A. The charges for labor and material used in meter and installation work charged against customers is set up in the books of account by monthly entry, the one I am referring to being for the month of July, entry No. 566 and reading "accounts receivable branches to sundries," in which the accounts receivable at the branches are charged and the various accounts are credited for the items of labor and material as indicated.

Q. You find it segregated under one item, do you?

A. Segregated under one item. I find that the credits are to various accounts. The labor and material used in meter and installation work, for which a charge is made, is credited to "Gas meter and installation work, jobbing," and "Material used and work on consumers' premises," for which a charge is made, is credited to "Work on consumers' premises, setting," as indicated by the respective entries in this account.

Q. You think that the work done in connection with appliances is included in the titles "Gas meter installation work, jobbing"?

19919 A. For which a charge is made, your question was, I believe.

Q. Well, where would that be carried in this ledger or this operating journal entry, under "Gas meter and installation work, Jobbing," or on "Work on consumers' premises setting and jobbing"?

A. The labor and material used for which a credit is made indicated here by this entire entry "L" for labor, "M" for material. That entry runs away through to here (indicating). This is the entry which journalizes the monthly accounts receivable report from the branches, this taking up the charges to consumers account, and this taking up the credits to consumers

19920 account on these things.

Q. Then your judgment is that this labor and material I have spoken about is some one of these items under this general entry in the ledger?

A. On this entry in the journal.

Q. In the journal, yes

A. These items being posted to their respective accounts as indicated.

Q. Well, would you say it is under the name of "Gas meter and installation work," or is it "Work on consumers' premises, jobbing"?

A. It is both, because these are charges against

consumers' accounts. These are the accounts which are credited with such charges, the labor and material being originally charged into this account and credit arising from a charge to the customers' account is credited to that account or respective accounts here.

Q. Well, you do not trace out any particular item here, coming from any one of the branch offices, that would cover that labor specifically, and that material?

A. I do point out the specific items coming from the respective branch offices as indicated. This (indicating) is labor from the Hester Street shop; this is material from the Hester Street shop report; this 19922
is labor from the 65th Street shop report; this is labor from 159th Street shop report and this is labor from The First Avenue shop report, and this is material from the Hester Street shop, and this is material from the 15th Street shop, and this is material from the 66th Street shop.

Q. Well, apparently these items now that you are speaking of come directly from the shops into the ledger and not through the branch offices?

A. They do not. They are all covered in the monthly reports made by the branches, the form is known as "Accounts receivable monthly reports."

Q. Then there must be some report made from the 19923
shops to the branch offices?

A. There is a record kept, of course, of materials and labor that were used.

Q. Where did you ever find any reports made to the branch offices from these shops?

A. I have not undertaken to go back to that detail. The amounts are small, and I considered them immaterial.

Q. You have not added them all up. Why do you say they are small?

A. Looking at the amounts as entered in the journal.

Q. For aught you know, these amounts that you have referred to which are marked "L" in some cases and "M" in others to indicate labor and material, may be charged up to something else then? It might have come from something else than work done in connection with the installation of an appliance?

A. As I have said before, we have relied upon the reports made by the managers of the branch offices for the integrity of their account to that extent

Q. Directing your attention to Schedule 3, Mr. Teele, "Gas residuals produced, 1918," have you in
19925 your working papers the quantities that go with each of these items?

Mr. Ransom: I object to the question. That has been fully gone over, and the quantities are shown on Exhibit 364.

Mr. O'Brien: We are going to come to that exhibit, your Honor.

Mr. Ransom: Very exhaustively covered.

The Master: Go ahead.

A. I am just trying to recall. That is shown, of course, on all the station reports monthly and cumulative, so that the December station report for each station shows the residuals—the quantity of residuals
19926 produced for the twelve months.

Q. Then you haven't it on your working papers?

A. I do appear to have a working sheet in which is set down the quantity of residuals produced.

Q. Will you give us the quantities for the several items on Schedule 3?

A. The quantities which I have used in making up these schedules upon which such quantities appear, I have taken from the manufacturing reports.

Q. Take the first item, the 14th Street Station?

A. Which residual?

Q. Starting with the first, coke. Now just a minute, Moeran. I am examining Mr. Teele, not you.

The Witness: He is pointing out to me one of our working sheets.

Q. I want you to point it out yourself. That is why I am examining you on these things.

Mr. Ransom: Mr. Teele has a great quantity of papers in court, and it is perfectly competent, in the opinion of counsel for complainant, for these papers to be produced and handed to him.

The Witness I am hesitating on this, your Honor, because the working sheet which has been checked is expressed in loads, and the other working sheet which is expressed in pounds, the figure 19928
does not appear to have been checked, and that is my reason for hesitating about giving it. The manufacturing reports report coke by loads or by chaldrons, and subsequently reduced to pounds. 14th Street coke, Mr. Moeran, this sheet which you have handed me is the "gas residuals produced, credit account." 3,216,000 pounds.

Q. Of coke?

A. Yes, at the 14th Street station.

Q. For the whole year?

A. Yes.

The Master: On Exhibit 205 Mr. Teele shows that there were certain residuals obtained. 19929

Mr. Ransom: $16,000 worth.

The Master: For instance from the 14th Street station that there was some coke, coal gas tar and ammonia. In Exhibit 354, the credit against the cost of making gas for these residuals is shown, but the residuals referred to are only water gas tar and drip oil. There is no credit here for coke.

Mr. Ransom: That has been explained. The coal gas item in that being so negligible it is all put in one item.

Mr. O'Brien: I want the witness's testimony.

The Witness: What is the question there?

The Master: On Schedule C of Exhibit 205 you set up a credit for residuals produced, 14th Street station, coke, coal gas tar and sulphate of ammonia. Now, on Exhibit 364 you set up a credit for residuals, but I see you only set up a credit for coal gas tar and drip oil.

The Master: Those are the residuals produced at water gas plants, and for that reason those residuals are the residuals that are deducted in
19931 the water gas calculation of cost. You will see that the coal gas item amounting in all to a total of $89,813.78 is bought together as one item of the coal gas expenditure less the residual derived from them, simply as one item. Therefore the residuals obtained by coal gas manufacture are dealt with in that item.

The Master: I see coal gas in 1918, 33,000,000 cubic feet at a cost of $89,000. In arriving at that figure you have taken the net cost of the coal gas, without setting up residuals?

The Witness: I have brought in one item there all of the expenses which relate to the manufac-
19932 ture of coal gas less the residuals applying to the cost of such manufacture.

Mr. O'Brien: I may say at this time, your Honor, that I expect when I reach that Exhibit 364 to show discrepancies between that and the other exhibits, although the totals remain the same. I will not go into that just now. I can pass on, if your Honor please, and take that up later.

The Master: All right.

Q. Mr. Teele, just to produce some continuity in the

record, give me the quantity of coal gas tar at 14th Street, if you have it, for 1918?

A. That is also a coal gas station.

Q. You gave me the quantity of coke in pounds—

The Master: There is a figure here, $744.48. How much in quantity does that represent, of gas tar, for the 14th Street station?

The Witness: 23,604 gallons.

Q. Have you the sulphate of ammonia there?

A. 59,084 gallons.

Q. Have you treated the 42nd Street residuals credit on Exhibit 364 the same way, giving a net figure? 19934

A. 14th and 42nd Streets operations are all given in the one figure of coal gas produced.

Q. Then we will pass for the moment to the 21st Street station, water gas tar. Give us the quantities, Mr. Teele, that are represented in the amount of $285,971.58?

The Master: Before the witness answers that question I shall ask the witness whether the quantity of water gas tar used and sold as shown on Exhibit 364 is the total quantity of water gas tar produced at those two stations for 1918, as shown on Exhibit 205, Schedule 3.

The Witness: The used and sold together with 19935
the reduction, or rather, the used and sold and the reduction on the inventory from the beginning of the year to the end of the year accounts for the total production.

The Master: That is all taken at six cents?

The Witness: That is all taken at six cents.

The Master: So that if Mr. O'Brien will divide $285,971.58 by six cents, he will get the quantities in gallons?

The Witness: That is shown on the manufacturing report also from which I took it.

The Master: What I am getting at, the figure which you gave in answer to Mr. O'Brien's question with regard to the quantity, represents that amount in money at six cents a gallon?

The Witness: Yes, it is taken at six cents.

The Master: Objection sustained, upon the ground that Exhibit 364 gives the figures.

Q. On Exhibit 364 is the quantity given in red print opposite the inscription, "Water Gas Tar Variation on Hand," is that taken at six cents also?

A. No, that is not taken at six cents.

19037 Q. At what is that figured in to the money column?

A. It is not figured here into the money column, because it does not enter into the cost of the tar used.

Q. But you have carried over the amount into the money column, haven't you?

A. It is a simple matter to figure it. It figures at 2.49 cents.

Q. Why was that figured at 2.49 cents, and the expense account for the same material figured at six cent a gallon?

A. It was valued as used at the price realized upon the sale. Gas tar was sold at six cents a gallon, and therefore, that which was used was valued at six cents.

19038 The original inventory of gas tar on hand January 1, 1918, having been inventoried by the company at a value of two cents, and that which was produced during the year having been credited originally at 6.23 cents, that which was used credited at six cents, and that which was sold credited at six cents, produced the inventory at the end based upon a valuation of the difference between the original inventory plus the production less the use at six cents, leaving the inventory at the end of the year upon a valuation of the total gallons divided by the difference in dollars of 2.49 cents.

Q. Then the inventory valued it at 2.49 cents?

A. Yes.

Q. And because there was a variation you put it in here at 2.49?

A. Yes.

Q. Now, leaving that Exhibit 364, and coming back to Schedule 3 again, and particularly to the 21st Street station, water gas tar quantities—have you that before you.

The Master: I sustain the objection to that upon the ground that it is a matter of mere computation. If you have a point bring it out. 19940

Q. Mr. Teele, you cannot find the quantities in the Operating Ledger—

The Master: Objection sustained as sufficiently covered.

Q. Mr. O'Brien: On his direct examination he says these facts are found in the books. I want to show that the books do not show quantities.

The Master: The books speak for themselves. You don't have to ask a witness whether a book shows something when the book will show for itself.

Mr. O'Brien: Exception.

Q. Mr. Teele, what does this inscription in this account, "Gas Production Residuals Produced Credits, 21st Street station," 1151 of the Ledger, mean, where it says, "Residual Stock"? 19941

A. It means that the residuals as produced are credited to this account, and they are charged to the account of the opposite side, representing the residual stock, from which account the residuals as used are credited.

Q. Is there an account called "Residuals Stock"?

A. Yes.

Q. Do these cross references here refer to that account?

A. If you will refer to the journal entry indicated on this ledger account, Journal entry 186—let me have the 1918 Operating Journal—and if you will refer to the ledger pages 208 and 210, you will find the residual stock account for the 21st Street station and the 99th Street station.

Q. In this account on page 1151, Gas Production, residuals produced credit, 21st Street station, is an operating expense account?

A. No.

Q. It is an operating account?

10943 A. It is an account kept to show the amount of residuals produced in the operations, while the account on the opposite side is kept to keep track of the residuals as produced and their disposition.

Q. Did you make any comparison in going over these books between the residuals produced account on page 1151 and the stock accounts?

A. I do not quite understand your question, Mr. O'Brien, as to whether I made a comparison or not. The journal entry which is made crediting residuals produced will also charge the residuals stock account at the same value. These accounts are carried exactly the same way that a coal stock account is carried or a

10944 cash stock account is carried.

Q. Then these stock accounts should show each month the amount of return in residuals should they not?

A. They do show.

Q. And did you compare one with the other to see whether they tallied?

A. These entries the journal entries were checked to them, yes.

Q. Did you compare the account on page 1151 with the stock account on page 211?

A. I did.

Q. Will you look them over here now?

A. Do you want me to again compare them?

Q. Yes, I want you to just show me that they tally.

The Master: Well, do they not?

Mr. O'Brien: No.

The Master: What?

Mr. O'Brien: Apparently not.

The Master: Call his attention to the variance.

The Witness: I will have to use the various journal entries.

Q. Go to the total of the 21st Street station. This (indicating) is oil tar. 19946

The Master: 186 is the item.

Q. Water gas tar, what is the balance of that account for the whole year?

A. The amount credited to residuals produced of water gas tar in the month of March, is $12,314.64.

Q. Now I am asking you about the total for the year?

A. The water gas stock account in the opposite side for the same month is charged with $12,314.64.

Q. No, but take the total for the year, so I will not go over each month.

A. You cannot compare the total of one account with the total of the other account, because the residuals produced account credits each month the amount of residuals produced as gas stock account. The balance shown in that account on the one hand is charged with the residuals as they are produced, and on the other hand it is credited with the residuals as they are used. Therefore the balance that is left in the account will be the balance of stock on hand at the end of the year, and therefore the balance in one account and the balance in the other account cannot be compared. The elements may be compared. 19947

Q. Take the balance that you have at the beginning of the year.

A. We have no balance in the account at the beginning of the year.

Q. Then this entry of $13,291.52 on page 1151, opposite the term "Residuals Stock" would mean the production from water gas stock at 21st Street?

A. Right.

Q. And we ought to find that in the stock account for the same month, should we not?

A. We do.

Q. Does that pass over to the journal before it gets into the stock account?

19949 A. The transactions or the reports upon which these amounts and the quantities are set up are expressed in a journal entry. Those journal entries are posted to the various ledger accounts.

Q. Take this entry here, Mr. Teele, in the operating ledger on page 1151 for any particular month. Is it set in there at six cents?

A. The journal entry only deals with the valuation in dollars.

Q. And the operating ledger also gives it only in dollars?

A. Only in dollars. To get the quantities we have to refer back to the manufacturing reports from which

19950 this journal entry is compiled. This journal entry is made with the view to reducing to bookkeeping form the transactions reported in that monthly manufacturing report.

Q. The manufacturing report does not set it up in dollars; it sets it up in quantities.

A. It sets it up in quantities, and between those quantities and the dollars expressed here there has to be a valuation put upon the quantity reported.

Q. Is there any intermediate record between the manufacturing report each month, which shows the residuals in quantities only and the journal entry which shows it in dollars only?

A. There is no intermediate record. The bookkeeper who prepared this journal entry will take the quantities as shown by the reports and possibly set them down on a sheet of paper and multiply the quantities by the price at which he is valuing the residuals produced, and thereby obtain the dollars which he gives expression to in this journal entry.

By the Master:

Q. But where does he get the valuation?

A. It is the valuation that he is instructed to use.

Q. By whom?

A. That I cannot say, who gives him the instruc- 19952
tions.

Q. You do not know where he gets the—

A. I do not know where he gets the actual instructions from. What I have done is to show what the average rate per gallon has been at which these residuals produced have been calculated.

By Mr. O'Brien:

Q. Wait a minute now. You say there is not any intermediate record between the manufacturing report made monthly that sets the residuals up in quantities and the journal entry which sets the same thing up in dollars or in terms of dollars?

A. I do not recall that there is an intermediate 19953
record.

Q. Would not the statistical record show that?

A. I do not recall that gas production statistics deal with the residuals produced. I will not say positively that they do not without looking at them. But in any event that is only a working sheet.

Q. Where did you go into these calculations to find out whether they were correct or not?

A. By taking the total quantities as shown by the manufacturing report and taking the total valuation as shown by the journal entries on the ledger account.

dividing one by the other I get an average per gallon and an average per unit of measurement, whatever it may be.

Q. Well you state now that you did not take these figures from the statistical report?

A. That I did not take these figures from the statistical report?

Q. That you did not take these figures—figures as to the dollars, from the statistical report?

A. These figures or the figures used in my schedule were made up before I had the gas production statis-
10955 tics in my hands, or had even seen them personally. My instructions were given as to how to make this computation.

Q. What were those instructions?

A. To divide the total valuation as shown by the accounts with the quantities as shown by the manufacturing reports, and thereby arrive at the average for the year.

Q. That does not prove anything, does it?

A. I was not aiming to prove anything. I was aiming to show what the figure was that was used.

Q. I am asking you now as to the checking process, as to determining the reliability of the final figure
10956 in terms of money that came out of the works in terms of quantities.

A. I have shown what the figure was that was used, and the support of it is the value which the company realized from the sale of such residuals, and which justified the valuation which they were putting on it.

By the Master:

Q. On this Exhibit 205 you have set out the amount which appears in the books?

A. Yes.

Q. In order to know that that amount is correct you

would have to have two factors, the quantity and the price?

A. It only had—yes.

Q. You did not make that computation?

A. I did make that computation.

Q. You made the reverse computation to get the price?

A. Figure it either way you please.

Q. Well, is not that so? You made the reverse computation?

A. I made the other computation first. I took what the account showed to me the company had realized from its sales. 19958

Q. Yes.

A. And that in itself gave me a price.

Q. Did you take in any instance the quantity produced, shown in the reports, multiplied by the price they were getting, to check off to see whether the figure appearing in the ledger was correct?

A. I did make that computation. Of course the figures had already been made.

Q. Yes. What did you have before you to give the price at which they had been selling?

A. If I recollect, we referred to copies of the bills rendered against the Barrett Manufacturing Company, to whom this material had been sold. 19959

The Master: I think that is sufficient, Mr. O'Brien. Let us get to something else.

By Mr O'Brien:

Q. Did you go back of the reports at all, from the works, Mr. Teele, to verify the amounts?

The Master: Objection sustained.

Mr. O'Brien: Your Honor, this test you directed the witness to make did not cover the matter of residuals, as I recall it.

The Master: That objection is sustained, Mr. O'Brien. I think we have spent sufficient time on it.

Q. Where did you get your residual expense from?

The Master: Before I permit the witness to answer I am going to ask what the point of the question is.

Mr. O'Brien: I am going to find out, your Honor, how far he went back to the statistical data.

The Master: Then the objection will be sus-
19961 tained, if that is the purpose of it.

Mr. O'Brien: Exception.

Q. Mr. Teele, when you say that you did not see these statistical data with regard to production expenses until after you had completed the figures in your exhibits, do you mean that you personally did not see it or that your men who made up these figures did not see that until their work was completed?

A. When I said what I did I meant that I had not seen it, and I had no knowledge of their having seen it.

Q. Do you mean to assert by that, that your men did their work without having statistical data?

19962 A. I mean just what I said, that I had not seen it, and I had no knowledge of their having seen it.

Q. Then you will not assert one way or the other with respect to their having seen it?

A. I do not know what they may have seen.

By the Master:

Q. What will you say with reference to what books and records they did make these computations from under your supervision?

A. Which computations, your Honor?

Q. The Schedule 3 of Exhibit 205—as to whether they did or did not base it upon the statistical data?

19963

A. I believe that they had not seen the gas production statistics in making this up. It was not necessary that they should see it.

Q. If they did see it, is it your testimony that they did or did not use it?

A. I should say that they did not use it.

Q. Did you watch these men working while they were taking off these figures?

A. No, but I know what the instructions were in regard to the make up of these gas residuals.

Q. Were you not around while they were working, at all?

19964

A. Well, I had twenty men working, your Honor. I was not sitting down watching what every man was doing. I know the instructions were given.

Q. But you saw generally what books they were working on?

A. I saw generally the books they were referring to.

Q. Did you see any man at any time have in his hand statistical data; did you notice them working on any statistical records?

A. If I did I could not have said what I did a moment ago.

19965

The Master: Next question.

By Mr. O'Brien:

Q. Mr. Teele, you just said that it would not be necessary for them to have the statistical data to get up these figures?

The Master: Objection sustained.

Mr. O'Brien: Will your Honor bear with me a minute now?

The Master: I do not think we want any more on that.

Mr. O'Brien: We had an instance the other

day—and I am going to come to it when we come to boiler house coal—where it was absolutely necessary, if this witness were to stand on the statement that these books were reliably audited, for the witness or some of his employees to have the statistical data. There were certain items of labor handling that could not be found in any other place.

The Master: This objection will be sustained.

The Witness: I did not say satistical data. I said gas production statistics.

19967 Q. Handling of coal is a gas production expense, is it not?

A. Of course, you may refer to a station report as statistical data.

Q. Handling of coal is an expense of production, is it not, Mr. Teele?

A. The quantities of coal used are all shown by the reports of manufacture.

The Master: Is the expense of handling a production expense—expense of handling coal a production expense?

The Witness: It is.

Q. Have you got any of the statistical reports there?

19968 Give me January, 1918?

A. What do you mean by statistical reports?

Q. Statistical data from the statistical data on production expense?

A. What do you mean by data?

Q. I mean what the journal means, and what the journal meant when you referred to it to find out the explanation of a certain $12,000 for labor in handling coal at 99th Street station for 1918?

A. If you will refer to specific papers that you want me to produce, if I have them, I will produce them.

Mr. Ransom: It was marked in evidence some days ago.

Q. The statistical report of gas production expenses for 1918, January, production statistics.

The Master: Do you mean the report of manufacture which purports to show a large number of items including gas account on hand last report, made etc., generator coal account on hand last report, received, used in generators; boiler coal account on hand received and used; coke account, and so on. Is that what you want?

Mr. O'Brien: I want the report that shows 19970
this reduced into dollars, your Honor.

The Master: I don't know what you want.

The Witness: Frankly, I don't know which report you are referring to. If I did I would tell you quickly what I have in mind.

Q. You were asked about the cost of handling coal at 99th Street, a certain $12,000 that is included in $134,000 plus for the year 1918.

A. Yes.

Q. You said you would have to refer to the journal, and you went to the journal, and you there found an entry that said, "As per data from statistical department" and you then referred to a report which 19971
your assistant handed you?

A. I then referred to a working sheet used in the accounting department.

Q. Yes.

A. Which is labeled "Gas Production Statistics."

Q. That is the idea. Now, have you got that for January, 1918?

A. Which working sheet is an underlying paper to the journal entries made distributing the quantity of material used in making gas each month.

Q. Yes. Have you that for January, 1918?

A. January, 1918, I think is here.

Mr. Ransom: What station?

Mr. O'Brien: 21st Street, now that we are on that.

The Master: The witness produces a paper marked "Gas Production Statistics, 21st Street Station, Month of January, 1918."

Q. Mr. Teele, this folder sets up amounts of coal and oil and so on, in quantities?

The Master: Objection sustained, the paper
19073 speaks for itself.

Q. And in terms of money?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Is this folder not an intermediate account between the reports of manufacture and the journal entries covering coal, oil and residuals?

A. I considered it a working sheet underlying the formulation of the journal entries for the month dealing with the items which are dealt with.

Q. It is intermediate between the manufacturing records, isn't it, and the journal entries?

Mr. Ransom: Objected to. Its status has
19074 been testified to a number of times in this case.

The Master: I will allow it.

A. It is intermediate, yes.

Q. And it is in pencil?

A. Surely it is in pencil.

Q. And there are no cross references in it to the sources of information?

A. They are not necessary in a working sheet.

Q. I asked you a fact, not whether it was or was not necessary?

A. There are no references.

Q. Now, that paper was necessary, if you are going to trace certain items out of the ledger to their sources, to verify it, was it not?

A. It is.

Mr. O'Brien: I will ask that this be marked for identification and we can put them all in together under one number.

The Master: No, I will mark them in evidence, if you want to.

Mr. O'Brien: As showing the paper concerning which I have questioned the witness. There liability of the figures I won't concede. I don't 19976 know anything about it.

The Master: No, I don't think you are bound by the figures.

Mr. O'Brien: As showing the paper concerning which I have asked the witness?

The Master: Yes. It is more in the nature of a form than anything else.

Mr. O'Brien: But without conceding in any way, or being bound by the figures.

The Master: No, you are not bound by the figures at all. This is not a case where you are going to be ruled out of court because you have offered in evidence some paper that has some 19977 statement on it. I am not going to hold you on that statement as a proof of the fact, of course not. When I decide this case—do you want that marked?

Mr. O'Brien: Under those limitations I will have it marked as the papers for these gas production statistics for 1918.

The Master: 21st Street station?

Mr. O'Brien: I will put them all in for 1918 and 1919.

19978 Arthur W. Teele, Cross.

The Master: Well, let us have them all, then. For 21st Street station for 1918.

The paper was marked Defendant's Exhibit AA13.

Mr. O'Brien: Also for the twelve months including December, 1918, 21st Street station.

The paper was marked Defendant's Exhibit AA14.

Mr. O'Brien: I suppose I am barred from asking this question by the answer of the witness that he hasn't any knowledge of the fact that his

19979 men saw these papers before they got up these exhibits.

The Master: I think they must have had them.

The Witness: No, not to make the tabulation. They did to verify it, of course.

The Master: Ask your question.

Q. Then, Mr. Teele, having found these particular statistical sheets called "Gas Production Statistics," would you make the same statement as to your not having any knowledge of your men knowing of these papers or seeing them before they made up the tabulations that constitute your exhibits in this case?

19980 A. I make the same statement I did before. These statements are not necessary for the tabulations.

Q. Just stick to the fact as to whether—

A. Yes. For the verification of the figures—

The Master: Just answer one thing at a time. Did they have them before the exhibits were completed to be presented here?

Mr. Ransom: That is a different question. He has been asked before the tabulations were made up.

The Master: I will get this right if you will please be quiet.

By the Master:

Q. These gas production statistics, examples of which are Exhibits AA13 and AA14, are the working sheets underlying certain journal entries?

A. Yes.

Q. Now, did your men use the journal entries in making up these tabulations?

A. They did.

Q. Did they use the underlying data of the journal entries in making them up?

A. Where they found it necessary they did.

Q. So that now will you say whether or not they 19982
did see exhibits or papers similar to Exhibits AA13 and AA14?

A. These are not necessary to the tabulations; they are in the verification of them.

Mr. O'Brien: There it is again, your Honor.

The Master: If you will let me alone, I will get the answer.

Q. But whether they are necessary for the tabulation or for the verification, were they used before the exhibits were finished?

A. I assume that they were. I may not know the exact time.

Q. Were they used? 19983

A. (Continuing.) When they were produced to us.

Q. Were they used in verifying the figures?

A. They were used in verifying the figures.

Q. Well, the figures were verified before you completed your schedules, weren't they?

A. The work progressed at the same time, and whether the schedules themselves, which are tabulations of the figures as shown by the accounts, whether the tabulations completed and advanced to the veri-

fication, or not, I cannot say at this time. I assume that before this was released from our hands it was verified.

Mr. O'Brien: What do you mean when you say it was released?

The Witness: I mean before this schedule.

The Master: 205.

The Witness: 205.

Q. Was released?

A. Showing the revenues and expenses for the year, December 31, 1918, was released from my
19985 hands, the figures in it had been verified by us.

Q. And to verify it some of these gas production sheets were used?

A. They had to be, of course, all gone through in order to verify the transfers.

By Mr. O'Brien:

Q. Was any particular man employed by you assigned to this job of verifying these statistical records?

The Master: Call them what they are.

Q. Gas production statistics?

A. Why, I do not now recollect how many of the men worked on them. There was more than one
19986 man worked on them.

Q. When did you turn over complete to the complainant's attorneys this Exhibit 205?

Mr. Ransom: Objected to as immaterial.

The Master: I will allow it.

A. I cannot tell without referring to my office records as to the date.

Q. Well, approximate it?

A. I think in May.

Q. Then you say that some time prior to May, before it left your hands, your men had taken these gas

production statistics, Defendants' Exhibits AA13 and AA14 and similar statistical data for the other months?

A. Yes, sir.

Q. And verified the figures there that you have in your tables?

The Master: Objection sustained, purely and solely on the ground that the question has been asked and answered several times.

Mr. O'Brien: I am trying to produce a little continuity in the record.

The Master: Don't worry about continuity. 19988
Objection sustained.

Q. How far did your men trace the figures in the gas production statistics to their source?

A. The figures used in gas production statistics come from five different sources, as I testified the other day.

Q. I did not ask you where they came from; I asked you how far they traced them?

A. I will answer your question.

The Master: I assume he is answering—

Mr. O'Brien: He is going back, like I did with some of my questions to get a little bit of continuity. 19989

Mr. Ransom: Back to the flood.

The Master: Well, let him go now.

A. The original invoices, for the invoice price used, and for the quantities used, in speaking of the coal production or the coal figures; for all other materials they went back to the original invoices. For labor, which figures as used come from the distribution of the pay rolls, known in the office as pay roll summaries, the men went back to the original pay roll summaries; as to the item of cartage, which en-

ters into the computations, here in the gas production statistics, they went back to the original cartage reports made monthly; as to the item of demurrage they went back to the original invoices, for the charges for demurrage, which are embodied in the gas production statistics. As to the quantities of materials used, they went back to the original station manufacturing reports.

The Master: They took those figures independently of Exhibit AA14 and having arrived at figures independently of those they checked

19991 their figures with these?

The Witness: Why, the tabulations, your Honor, the dollar figures taken from the ledger accounts; the substantiation or verification of those ledger accounts goes back through the journal entries, through the underlying papers, the working sheets of these gas production statistics, and back through those again to the original prices from which that information is obtained, which sources of information I have just enumerated, invoices, pay rolls, distributions, cartage reports, invoices for demurrage and the original station manufacturing reports.

19992 Q. Well, in this first column here you have generator coal. Where did they go to verify this amount on hand, $36,076.56?

A. Starting with the first of January, the report for the month of January, the inventory on hand or figures opposite the "On hand" are shown under tons, and will be obtained from the station reports; the amount of the figures shows in the amount column and will be shown by the ledger accounts.

Q. Stock account?

A. Being the valuation—in the stock account, being the valuation of the inventory on hand at January

1st; and starting with that as a basis, the other figures are taken, the tons received, are verified by the station reports and from the invoices themselves, which are taken up in the amount columns; the amount of labor that is set out under the various headings comes from the pay roll distributions, and the amount of the cartage that is shown here is shown by the cartage rereports for the month, and there is no demurrage charge in that month—I beg your pardon, there is one delivery as shown in the stock account.

Q. Mr. Teele, have you gone into the gas production statistics for the several stations for other years 19994
than 1918 and 1919?

A. Yes, I have gone into them in 1919.

Q. And none of the prior years?

A. None of the prior years.

Q. How long has the practice obtained in the company of keeping these gas production statistics?

A. I could not say.

Q. Do you know whether they did it for any of the other years?

Mr. Vilas: Objected to.

The Master: Do you know, Mr. Teele?

The Witness: I know they have it for 1917, because I have seen them for 1917; I have not 19995
inquired as to prior years.

Q. In what way did your men check up this residual expense account shown on Schedule 3?

A. By an examination of the vouchers and underlying papers supporting the entries made in the ledger account.

The Master: Is that the way they checked up every account?

The Witness: Yes, sir.

Q. Where work was done by contract did they get into the contracts?

19906 Arthur W. Teele, Cross.

A. If there were contracts necessary to an explanation or verification of vouchers the contracts were produced.

Q. Can you say whether they had those before them?

A. Are you speaking about this account?

Q. Yes.

A. I don't know of any contracts in connection with this account. There is a payment apparently made here on voucher to an outside company. The vouchers themselves will show what they are for. I
19907 cannot at this time say whether any contracts were examined in connection with these papers or not.

Q. Do you know what the work was?

A. I do not, and will not undertake to say without reference to the original entries and papers.

Q. Do you know what your instructions to your men were in connection with this account?

The Master: I will sustain an objection to that.

Mr. O'Brien: Exception.

Q. Will you state whether your men went into the pay rolls for residual expense to determine whether or not this labor was already charged up to some
19908 other account?

Mr. Ransom: Objected to as fully explained.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Do you know why the payment was made to the National Coal & Coke Company charged up to this account?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Will you say whether or not this item, January 31st, and the item of February 28th, payments

to the National Coal & Coke Company, were for coke?

The Master: Objection sustained.

Mr. O'Brien: Your Honor, I recall to your mind the statement made by the witness—I think it was this witness, maybe it was Mr. Brundage—

Mr. Ransom: Mr. Brundage was asked about it.

Mr. O'Brien: That there was no coal or coke bought from the National Coal & Coke Company.

Mr. Ransom: Mr. Brundage said that was for 20000
cartage.

The Master: Objection sustained.

Q. Where there was a contract covering work did your men go into the terms of the contract to determine whether or not the payments should be checked, or did they simply take the amounts shown on the vouchers?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. What did your men do in the shape of investigation of accounts to determine what of these items should be charged up to 1918 and not 1917?

The Master: The same ruling. 20001

Mr. O'Brien: Your Honor, I would like at this time to ask this question, which will apply to many other items in the case, and that is, whose judgment, if they did take somebody's judgment, whose judgment they took as to the allocating of certain items to the 1918 expense?

The Master: It is in the record.

Mr. O'Brien: And if they based it on their own judgment, how far they went to determine.

The Master: It is in the record.

Mr. O'Brien: For instance, here they have taken the one figure at the end of this residual expense account, and have put it in this schedule. Now, the entries are made apparently near the end of the month, and I think it is fair to ask the witness what steps they took to trace these items to determine whether or not they were properly chargeable to 1918 or 1917.

The Master: In the light of the record as it stands I do not think it is necessary to ask these questions.

20003 Mr. O'Brien: I do not think the record is complete enough on that.

The Master: I think so.

Mr. O'Brien: Exception.

Q. Mr. Teele, are you able to say from an examination of this account, or from any journal entries that relate to it, that no part of this money was spent on work for the government in connection with the production of toluol?

The Master: Objection sustained.

Mr. O'Brien: Exception. I ask these questions, your Honor, because there are expenses here shown on the expense account of $1,353.74 for

20004 14th Street, and $291.78 for 42nd Street, dead plants.

Mr. Ransom: They were operated in 1918.

The Master: Don't start discussion.

Q. Will you state, Mr. Teele, the quantity of drip oil that you have credited to the 21st Street station on Schedule 3, represented in terms of dollars as $52,798.48?

The Master: An objection will be sustained upon the ground that it is a mere matter of computation. I see no useful purpose in asking the witness to give that figure.

Mr. O'Brien: Exception.

Q. Mr. Teele, was this drip oil for the year 1918 in the several accounts referred to on Schedule 3 of Exhibit 205 entered into the books at a uniform figure?

The Master: I will sustain an objection to that question. You have had the books subject to your inspection for four months, and you ought to know whether it is or is not.

Mr. O'Brien: Well, I can defer this until I get to 364.

The Master: No, I am not going to permit 20006
any questions asking the witness what appears in the books, when the books have been subject to your inspection for months, and your men ought to know what is in the books.

Mr. O'Brien: There is nothing shown in the account, what I am quizzing the witness about.

The Master: If you think it is important to have it in the record you can say, "Am I not right in my statement that ledger so and so does not show quantities." I am not going to waste time on it. The very purpose of giving you gentlemen time to examine these books has been that you might come in here with a list of ques- 20007
tions, as you have, given to you by your experts, to which you can direct the attention of the witness, and in a very few minutes get on the record the point you want to make.

Mr. O'Brien: Well, I will take it up when I get to Exhibit 364.

Q. At page 2138 of the testimony you have set forth the method that was used by the company in arriving at the profit, so-called, from the sales of appliances; and then on page 2140 you state that the

account starts with an inventory of appliances on hand. How often is this inventory compiled during the year?

A. Twice a year.

Q. What dates?

A. May 31st and November 30th.

Q. Well, then, it would be more correct to say that the account starts on January 1st with a book figure rather than an inventory figure.

A. Did you read the whole of my answer?

Q. Which one?

A. The one just referred to, where I said it started
2009 with an inventory.

Q. "The account starts with an inventory of appliances on hand at a value." I quote from page 2140:

"Q. Not necessarily cost?

"A. Not necessarily cost."

A. I had in mind when I made that statement that that is the beginning of the account. The balance which is shown in that account on January 1st, however, is the inventory of November 30th preceding, plus or minus the net transactions for the intervening months. I had no intention of giving a wrong impression in regard to that.

20010 The Master: You don't have to apologize every time Mr. O'Brien finds a statement he wants to check up. The fact is it is not an inventory as of January 1st?

The Witness: It is not an inventory, it is the book value of January 1st.

The Master: The very purpose of these questions is to bring out matters upon which argument can be based.

The Witness: I think I have so stated at some other point.

Q. What prices are used by the company in compiling this inventory? Are they the actual invoice cost prices, or are they based on the current market price?

A. The cost taken in the inventory is the price at the last purchase price.

Q. The profits on appliances, then, are controlled by the prices adopted in the inventory, are they not?

A. The inventory has an effect upon the determination of the amount of the profit as shown by that account.

Q. You are setting up the last or market price 20012
nearest to the time of the inventory?

A. Quite right.

The Master: It is probably the market price.

The Witness: This advancing market has worked against the company.

Mr. O'Brien: Just a minute. I am going to ask that that be stricken from the record.

The Master: No, I will not strike it from the record. I had that in mind myself. For instance, if in May, 1918, they take up a lot of appliances at, say, $100,000, and between May and November they buy some appliances at a higher rate, so that the great mass of the stuff 20013
that was on hand in May is again revalued in November at the price which they paid in November, they are operating against themselves. I can see that.

Mr. O'Brien: But do you not see, your Honor, that the old appliances are out and there is an increase? Take the rental, in some cases there has been over 33 1/3 per cent increase in the rental on the old appliances.

The Master: That will show up in revenue.

Mr. O'Brien: What?

The Master: That will show up in revenue. It will not show up on sale of appliances profit, but it will show up on the rental of appliances.

Mr. O'Brien: The point is this: The witness has just made some remark that the price was against the interest of the company.

The Master: The way they did it. If it went up it would be against them; if, on the other hand, the price of material went down between two inventories, it would be in their favor or would reduce the profits.

20015 Q. What steps did you take to compare the inventory prices with the purchases made by the company?

A. We listed the invoices running back for a considerable period prior to the inventory date. I made an examination of the invoices prior to the inventory dates to determine what prices were paid by the company and to satisfy myself in regard to pricing of the inventories taken at November 30th, 1917, and November 30th, 1918

The Master: How about May, 1918?

The Witness: I did not bother with it. It was an interim and it did not make any difference.

20016

The Master: We will adjourn until tomorrow at 9:30. The Master gives notice that tomorrow and on the next day we will sit from 9:30 to 1 o'clock and from 2 to 4 o'clock.

Adjourned to Thursday, November 20, 1919, at 9:30 o'clock, A. M.

Last Complainant's Exhibit 375.
Last Defendants' Exhibit AA14.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 20017

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 20, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 20018
MR. O'BRIEN, of Counsel for defendant Swann.

ARTHUR W. TEELE, resumed the stand:

The Master: Have you any further questions to ask on cross-examination at this time, Mr. Chambers?

Mr. Chambers: No, not until I prepare on those two matters. 20019

The Master: I told you I would not press you to finish your cross on Exhibit 367, or the tabulation covering the various years—I think it is 366—until Mr. O'Brien is through. I announced yesterday that we would convene at 9:30 this morning. It is now within two minutes of ten and Mr. O'Brien has not appeared, so I will assume that either one of two things has happened, either he has been unavoidably detained or he has neglected to be here at the time specified. Under the circumstances I cannot wait any

longer and shall suspend the cross-examination of this witness. I do not know whether I will let Mr. O'Brien ask any more questions on cross; it depends entirely on the reason for his failure to be here. If you say you are not ready to go ahead with your cross I will suspend it until Monday morning.

Mr. Chambers: I think you ought to wait a little bit and see what is the matter with Mr. O'Brien.

The Master: We can handle that later on.

20021 Have you any questions to ask, Mr. Clark?

Mr. Clark: Except on Exhibit 367.

The Master: And you are not ready on that?

Mr. Clark: No, not yet.

The Master: You want to follow Mr. Chambers?

Mr. Clark: Yes, sir.

The Master: Have you any questions to ask, Mr. Neumann?

Mr. Neumann: None except what Mr. Clark will ask.

The Master: Then the cross-examination of Mr. Teele is suspended. Has Judge Ransom

20022 anything more to go ahead with?

Mr. Chambers: Just a minute. I do not think you ought to take Mr. O'Brien's default, and I protest against it—until you ascertain the reason for it.

The Master: What do you want me to do?

Mr. Chambers: I think you ought to telephone to his house and see if he is ill.

The Master: I am going ahead with something else.

Mr. Chambers: I protest against the Master's taking advantage of Mr. O'Brien.

The Master: What advantage am I taking of him?

Mr. Chambers: You are penalizing him, it seems to me.

Mr. Ransom: Here is Mr. O'Brien. Here he is now.

The Master: How am I penalizing him?

Mr. Chambers: By shutting off his cross-examination.

The Master: Did I say I was not going to let him cross-examine any more?

Mr. Chambers: I think that is what you said. 20024

The Master: Did I not say that it depended entirely on the reasons that he gave for his absence?

Mr. O'Brien: I am sorry to have kept you waiting.

The Master: Well, what is the reason?

Mr. O'Brien: Well, several reasons.

The Master: That is not a good reason, Mr. O'Brien—every reason. We have all been standing here for half an hour.

Mr. O'Brien: I am sorry to have detained you, but it was necessary for me to be at home this morning.

20025

The Master: Mr. O'Brien having appeared, we will now proceed with the cross-examination. We will have to sit until half-past four this afternoon under the circumstances. I particularly said 9:30 and I figured it out for you as five and a half hours.

CROSS-EXAMINATION BY MR. O'BRIEN RESUMED:

Q. Did you compare the different types of appliances in this inventory, Mr. Teele?

Mr. Ransom: Objected to.

20026 Arthur W. Teele, Cross.

The Master: I will allow it.

Mr. Ransom: I think that was gone over.

The Master: Which inventory?

Mr. O'Brien: The inventory of appliances; the different types.

A. I do not understand your question.

Q. I will go back. I may have asked you this question before, but it will connect with what I am going to ask you. The profits on appliances are controlled by the prices adopted in the inventory, are they not?

20027 A. The prices in the inventory have an effect upon the profits as determined from gas appliances.

Q. How far did you go to compare the inventory prices with the purchases made by the company?

A. We compared the prices on the goods in the inventory of November 30, 1917, with purchase invoices prior to that date, the last purchase invoices prior to that date, to the extent of about 70 per cent of the inventory. For the inventory of November 30, 1918, we compared the inventory prices with the purchase invoices prior to the inventory, to the extent of something over 70 per cent.

Q. When you say that, do you mean you took dif-

20028 ferent classes of appliances and compared the prices?

A. We took the different prices in the inventory and went back to the purchases prior to the inventory.

Q. Are they grouped there as to types, as to classes or types of appliances?

A. Grouped where?

Q. In the inventory.

A. Yes.

Q. And then you took the price as per group and compared it with the inventory?

A. No, we took the price as to type and size: the individual items as listed in the inventory.

Q. How many different types of appliances did you compare in that way?

A. I do not remember how many types.

Q. Do you remember how many classes there were?

A. I did not count them. I took it on the valuation of the inventory. Taking the items in the inventory, which we compared as against the total items in the inventory, we compared something over seventy per cent.

Q. Did this comparison disclose that the prices in the inventory were invariably greater or less than the invoice prices? 20030

A. They were the last invoice prices.

Q. Were they invariably greater or less?

The Master: He says it was the same.

Mr. Ransom: The same.

A. I have answered the question.

Q. Were there any second-hand appliances in the inventory?

A. I do not recall whether there were or not. I don't recall whether there were or not.

The Master: If there were, how were they taken in?

The Witness: They would be taken the same as new appliances. They would be taken at the 20031 last invoice price.

The Master: Of a new appliance of the same kind?

The Witness: Yes.

Q. Could you tell from the inventory whether the appliances were new or second-hand?

A. I did not examine the inventory with a view to determining whether they were new or second-hand. I took the items of the inventory as shown by the inventory books and went—

Q. (Interposing.) Have you any of the inventory here in court?

A. I will finish my answer first. We went back of the inventory books to the individual stock sheets which were signed by the men who took the inventories.

The Master: There was nothing on the stock sheets or on the inventory sheets to indicate whether they were new or old?

The Witness: I do not recall, your Honor. That work was done under my direction, and the items to be examined in most of the branches I indicated personally, what I wanted examined.

20033 Q. Then we may assume that you do not recall anything about the second-hand appliances?

Mr. Ransom: Objected to.

The Master: Objection sustained. You can draw your inferences from what he has said. I do not think that question is proper.

Q. Do you think that the second-hand appliances were carried at the invoice price?

A. Yes, sir.

Q. Then in view of this fact, does it not appear that the amount shown on Schedule 4 as Gross Profit from Sales of Gas Appliances is a purely arbitrary figure?

20034 Mr. Ransom: Objected to.

The Master: I think that is argumentative.

Mr. O'Brien: Depending entirely upon arbitrary prices?

The Master: I think that is argumentative. It can be gathered from what he has said.

Mr. Ransom: Objected to.

Q. Mr. Teele, when did you go into the matter of these appliances? Was it before or after your direct testimony?

A. Oh, before.

Q. Are you acquainted with the prices at which the company disposed of their second-hand appliances?

A. Only as shown by the reports from the branches.

Q. Were they not disposed of at a price considerably less than the inventory figure?

A. They were disposed of at less than the inventory figure.

Mr. Ransom: Are you referring to those withdrawn from use?

The Master: Do not interrupt, Judge Ransom.

Q. As a matter of fact, it was considerably less than the invoice price? 20036

A. A relative term "Considerably less." They were disposed of at less than the inventory valuation.

The Master: If the appliance was an old appliance and in pretty bad shape, it must have been sold at a lower figure.

The Witness: It has the same earning power as it had before, as far as the company's investment was concerned, and until it was disposed of.

The Master: I mean on a sale.

The Witness: Well, on a sale, when they disposed of it the difference between the inventory value and the amount realized was a loss which they charged in their accounts. 20037

Q. And this is a loss which represents the difference between the inventory price and the actual price realized?

The Master: Certainly.

A. Certainly.

Q. Where do you show that in your report, Mr. Teele?

A. What in what?

Q. Where do you show that loss in your report?

A. Why, the loss is shown in the report as a de-

duction from the net profits. Only the net profit is shown in the report.

By the Master:

Q. You do not set that up in detail in your schedule?

A. It is the net profit.

Q. What was the gross? How much was the gross?

A. The balance of an account arising from the transactions in gas appliances. That account is charged in the beginning with the inventory, it is charged in addition to that with the purchases at in-
20039 voice prices; it is charged further with returns and transfers between branches. It is credited with the issue of appliances to the district for rental, with sales made, with transfers, and with the inventory at the end.

Q. Does that all appear in the ledger account?

A. It appears by analyzing the ledger account.

By Mr. O'Brien:

Q. Well, you have not got it in Schedule 4?

The Master: No, he said that. I asked him that. It is not in Schedule 4, that is the reason I asked him that.

A. The result is in Schedule 4.

20040 The Master: But you do not show the gross. In other words, you do not make up a schedule in this exhibit which would show the inventory at the beginning of the period and the amount of purchases and the amount of sales, and all the other items entering into the net.

The Witness: No, there is no such schedule included.

The Master: Does it appear on the ledger?

The Witness: No, but I have the working papers that show it.

Q. Mr. Teele, are you sure it is in Schedule 4?

A. The result is in Schedule 4. Certainly.

Q. What do you mean by the result?

A. The balance of the account.

Q. You might say that everything was in Schedule 4 that had any remote connection with the accounts of the company?

A. No.

The Master: No, he says the figure given there is the net profit of the appliance account and is the result of all the entries pro and con, debits and credits, to that account. That is the result of his analysis of it, that is all.

Q. Do you agree with that statement of the Master? 20042

A. Yes, that is correct.

Q. That loss is included in "Plant Withdrawn from Service," is it?

A. The loss is charged to "Plant Withdrawn from Service."

The Master: Well, is it charged in both places?

The Witness: It is written off in the appliance account.

The Master: What has this to do with plant withdrawn from service if it enters into the appliance account?

The Witness: You are dealing with two different accounts. When you asked the question of whether the loss of plant from service is dealt with here in this account, I will answer no, because the issue of appliances from the appliance stock for account as appliances rented is one transaction. The loss that is entailed on plant withdrawn from service is the loss that is entailed when those appliances which have been included in the appliances rented account are withdrawn from the service, and are withdrawn at the invoice price, taking them out of the capital 20043

account at their inventory price. If there is any realization from the scrap or sale of those appliances withdrawn from service, it is credited against the loss, and the loss itself is charged to plant withdrawn from service.

Q. This loss is taken care of in the plant withdrawn from service?

A. Which loss are you speaking about?

Q. The loss on appliances that we have been talking about for fifteen minutes?

A. This appliance account, or the profit on appli-
20045 ances to which you referred is the profit resulting from transactions through a stock account. This stock account carries in the accounting the inventory of appliances not rented, but appliances in stock. Appliances rented is an entirely different class of property. It is a different account entirely. Now, this stock account—

Q. Now, just a minute—

A. Let me finish, please. This stock account is charged first with the inventory on hand; secondly, with the purchases; thirdly, with any returns which come back into the stock; and fourth, with any transfers between the branches of stock, and it is credited
20046 on the other side with any issues of appliances to the appliances on the district and carried in the account as gas appliances rented; second, with any sales which are made; and third, with the transfers between branches; and fourth, with the inventory on hand at the end. Now, the difference resulting between crediting sales at sales price and crediting issues and inventory at inventory prices on the one hand, and the inventory plus the purchases and also transfers at inventory price on the other hand, produces either a profit or a loss, and in this case it has produced a profit, because the issues have been at higher prices

than the purchases and inventory at which the account is taken in on the debit side.

Q. Are you through now?

A. Yes.

Q. You said that this account here, Schedule 4, has nothing to do with any profits or losses on rented appliances. Did I understand you correctly?

A. Schedule 4 has nothing to do with plant withdrawn from service, or appliances withdrawn from service. This is as I have explained.

Q. I asked you the question whether there was anything in here that was in Schedule 4 that related to 20048
rented appliances?

A. I don't know what you mean when you say, "Is there anything in here relating to rented appliances."

Q. Didn't you say a minute ago that this schedule was made up from stock account and hadn't anything to do with rented appliances?

A. I did not say that it had nothing to do with rented appliances. I distinctly said that the account of which this is the balance, was credited with appliances rented, not with the rental, but with appliances issued.

By the Master:

Q. Let us see if I understand it, Mr. Teele. You 20049
have one stock account for appliances?

A. Yes.

Q. That stock account goes into two separate accounts, sales and rentals?

A. The stock account itself is credited with the sales?

Q. Yes, but there are two separate accounts dealing with sales of appliances and rentals of appliances, is that correct?

A. Yes.

Q. The appliances that are rented or sold come from the same stock account?

A. They come from the same stock account, but are carried in a separate account.

Q. I understand that. What I am trying to make clear to Mr. O'Brien, and perhaps on the record is, that where the stock account comes in it relates to appliances rented in the sense that appliances rented are credited to that stock account?

A. Passed through it, that is right.

Q. Passed through it. But once the appliance rented left the stock account, the stock account books or records showed that that appliance had gone into
20051 the rented appliance account?

A. That is right.

Q. That ends it?

A. That ends it unless it is returned.

Q. And when it is returned it will be inventoried again as an appliance on hand at the last purchase invoice price?

A. That is right.

Q. Now, then, taking your appliance rented account, you will have a machine or an appliance that is still in use but returned to stock, won't you?

A. If it is usable, yes.

Q. It is returned to stock?

20052 A. Yes.

Q. Which may afterwards be sold?

A. Yes.

Q. It may be sold at less than the inventory price?

A. Yes.

Q. And that loss would show in the appliance sales account?

A. Yes, if it is sold at less than the inventory price.

Q. Now, suppose it does not come back to the stock account at all, but is abandoned while rented, found useless and abandoned while it is in the rental schedule, in the rental account, what becomes of it?

A. If it is scrapped or condemned, it is taken out of that rented appliances account at the inventory value.

Q. Yes?

A. And if nothing is realized from it, it is written off against plant withdrawn from service; if anything is realized from it, whatever is realized is deducted from the inventory value, and that loss is written off.

Q. Putting it another way, the net loss from the appliance withdrawn from service which is out as a rented machine, is charged against the capital account? 20054

A. It is credited to capital account.

Q. Credited to capital account, is that right?

A. That is right.

Q. Well, why is that done? Why isn't it returned to stock and handled against the stock sales account?

A. My understanding is that it only goes back into account when it is an appliance that can be made available for sale and is again usable, but if it is scrapped and condemned as it comes off the district, it does not go back through the stock.

Q. Is the stock account a capital account?

A. The stock account a capital account? 20055

Q. Yes.

A. No, it is not a capital account.

Q. The appliance rented account is a capital account?

A. The appliance rented account is a capital account.

Q. So that when you take an article out of stock and put it into appliances rented, you are putting it into capital account?

A. It goes out of material and supplies account and goes into the investment account.

Q. If it is an old machine which is going to be discarded pretty soon, you are putting into capital account an article at greater value than it is really worth?

A. The company's investment in it has not changed.

Q. No, that may be so, but the amounts which you charge—

A. It produces the same rental until it is retired.

Q. Yes, but suppose it is apt to be retired in a very few months, and is in fairly bad shape?

A. If it is retired, the loss on it when it is retired

20057 will be written off.

Q. Into the capital account?

A. Written off the capital account.

Mr. O'Brien: At what price?

Q. At the price—

A. It will come out of the stock account and go into the capital account at the last inventory valuation. It moves always on the last inventory valuation.

Q. If it is a total loss, it is written off at that inventory price?

A. It is written off at that last inventory price.

Q. If it is only ninety per cent loss, it is written

20058 off at ninety per cent of the inventory price?

A. Right. It is written off the capital account at 100 per cent loss, not ninety per cent loss.

Q. If you credit back the salvage, it may only show ninety per cent which is actually written off?

A. The loss on capital account is 100 per cent: it goes in at $100 and comes out at $100.

Q. And if you put back $10?

A. If they realize $10 on it, $90 will be written off plant withdrawn from service, and the $10 realized will go into cash.

By Mr. O'Brien:

Q. Well, the loss is on plant withdrawn from service account, isn't it?

The Master: I think that is fully covered now. I think I have got it clear.

Mr. O'Brien: I want a definite statement.

The Master: I think it is definite. I think it is covered.

Mr. Ransom: The company has no alternative but to treat it that way under the regulations.

The Master: That is a matter of argument. The fact is clear. Whatever the argument is 20060
will come up later on.

Q. Then that loss is included in Schedule 12, $601,450.69, grouped under the title, or set opposite the title "Plant Withdrawn from Service"?

A. Yes, sir.

Q. Well, you made no attempt to set up separately that loss. Have you got it on any of your working papers?

The Master: Schedule 4 shows gross profits from sale of gas appliances.

The Witness: Which schedule are you referring to?

The Master: Schedule 4 of Exhibit 205. 20061

Mr. O'Brien: I am asking about Schedule 12.

The Master: I am asking about Schedule 4 for a second. I thought he said that was the net figure, net profit. It is marked gross profit on sale of appliances.

The Witness: Well, it is perhaps a question as to how that profit should be described, because the expenses of the conduct of the appliance business are not charged against that profit. They are included in the "other expenses of the busi-

ness." To term it net profit from gas appliances sold would perhaps be as misleading as using the word gross profit.

The Master: I get your point.

The Witness: I don't want to term it net profit.

The Master: Well, you have in your testimony.

The Witness: Because it might be inferred that all the charges that should be charged against it have been charged.

20063 The Master: Well, you call it net in your testimony. That is what made me ask you.

Mr. Ransom: Net as against this loss that they are referring to here.

The Witness: The terminology of gross profit and net profit is one that is used so interchangeably and under such different conditions, that without knowing exactly what enters into it when it is used, it is rather difficult to define it.

Q. I asked you whether you had the amount of these losses separately set up?

A. I have in my working papers the amount of loss that is charged.

20064 Q. What is it?

A. To plant withdrawn from service on account of appliances.

Q. What is that amount?

A. Which loss do you refer to?

Q. I mean the loss in the sale of second-hand appliances?

A. Do you mean the loss from second-hand appliances sold, or do you mean the loss arising from gas appliances retired from the rented appliances.

The Master: That is what he meant, the latter?

The Witness: My analysis has both losses in it.

The Master: Give both.

The Witness: The total loss included in the $601,000 as loss on plant withdrawn from service is $118,547.66, and that is made up of two elements, the difference between the cost and sale price on second-hand appliances sold from stock.

Q. That is what I want.

A. Amounting to $42,517.17; and the loss through the sale of rented appliances at less than their inventory of $76,030.49. 20065

Q. That is for the year 1918?

A. For the year 1918.

The Master: Then you have included in plant withdrawn from service losses that ought to appear in the operating account of appliances sold, haven't you? What was that item of forty-two thousand dollars?

The Witness: The forty-two thousand dolars is the difference between the cost and the selling price of the second-hand appliances sold from stock.

The Master: You said that stock was not a capital account. 20067

The Witness: It is not a capital account.

The Master: Why is it entered here under plant withdrawn from service?

The Witness: It is not dealt with by the company as a capital account, it is dealt with as a material and supply account.

Q. Answer the Master's question if you will. Why is it included here under plant withdrawn from service?

A. Because this account, carried by the company

as plant withdrawn from service, is a suspense account to which is charged the losses sustained by the company on property which is sold or realized at less than its inventory valuation.

Q. Well, this whole amount is deducted, isn't it, from the capital of the company?

A. Deducted from the capital of the company?

Q. Yes.

A. It is deducted from the investment in gas appliances.

Q. Yes, and investment in gas appliances is cap-
20069 ital, isn't it?

A. Yes.

Q. And this is deducted from it?

A. It is capital, of course it is capital; every asset is capital.

Q. This amount is deducted from it for that year?

A. This amount is deducted from a capital account to that extent.

Q. Can you give any other reason why the loss is buried in this account, $601,450?

A. I don't understand what you mean by "buried" in this account. It is charged here in the regular course of business. It is not buried here.

20070 Q. Well, it does not show on the face of the account, does it?

A. It does show plainly; that is where I got it from.

Q. It is not here on Schedule 12?

A. It is not intended to be on Schedule 12.

Q. Give me the amount, we will take up the burying afterwards. Give me the amount of the first group of $42,000?

A. $42,517.17.

Q. Those are the losses you say of second-hand material?

A. The difference between the cost and sale price of second-hand appliances sold from stock.

Q. Where did you get those amounts from, Mr. Teele?

A. From the journal entries.

Q. They represent the sum total of the journal entries?

A. They represent the sum total of the journal entries made in [illegible]nt for these particular classes of transactions.

Q. Have you got the journal item number there?

A. Yes.

Q. What are they, please?

A. Journal entry No. 435, $3,323.06. 20072

Q. They represent the difference between cost and sale price of 513 second-hand appliances sold from stock at 111th Street Meter and Appliance Shop during the period from December 1, 1917, to May 31, 1918, inclusive, as shown by inventory on file—is that a correct reading of the entry?

A. I have not the entry before me, and I presume you are quoting from it. I have abstract of the entry showing the nature of it.

By the Master:

Q. How much is the amount of the first item?

A. Journal entry No. 435.

Q. The amount?

A. $3,323.06. 20073

Q. The entry as I read it from page 177 is "Plant Withdrawn from Service, Suspense to Gas Appliance Repair Shop, for the Difference between the Cost and Selling Price of 513 Second-hand Appliances sold from Stock at 111th Street Meter and Appliance Repair Shop during the period from December 1, 1917, to May 31, 1918, Inclusive, as Shown by the Inventory on File." What is the next item?

A. No. 437, for $8,206.99.

The Master: Next question, Mr. O'Brien.

By Mr. O'Brien:

Q. What is the next item?

A. Entry No. 438.

Q. How much?

A. $8,012.34.

Q. Now read that?

A. Just a minute, I may have—

The Master: Mr. O'Brien can read it.

Q. Journal entry No. 438, dated June 9, 1918, reads as follows: "Original Cost of Gas Appliances Condemned and Destroyed (719) During the period
20075 December 1, 1917, to May 31, 1918, as Shown by the Monthly Gas Appliance Inventories on File, $8,012.34."

The Master: Yes, the Master states he has read that in the Journal, and that is correct.

Q. So that that is not the loss from the sale of second-hand materials?

A. I grouped these items wrong. I have the analysis of the losses here in one column, and I did not read the individual notations against any of those figures.

Q. Will you read the next item you have?

A. Journal entry No. 585 for $69,340.99.

Q. That is for the loss to the company through the
20076 sale of 1,233 rental appliances at less than inventory value?

A. That is right.

Q. During the period from December 1, 1917, to May 31, 1918, as per reports from the Commercial Department on file?

A. That is from gas appliances rented?

Q. Yes.

A. The next entry is the same, 1176, for $6,599.50.

The Master: 1176 is gas appliances rented, $6,599.50. The entry reads: "For the loss to the company through the sale of 774 rental ap-

pliances on the district at less than inventory, June 1, to November 30, as per reports of the Commercial Department on file."

Q. The next one, Mr. Teele?

A. The next journal entry is 1177, for $7,347.12.

By the Master:

Q. That is for the loss to the company through the sale of 1433 second-hand rental appliances sold from stock at less than inventory, June 1, 1918, to November 30, 1918, as per report from the Commercial Department on file?

A. Yes. The next entry is 1178, for $4,487.38. 20078

Q. That is, gas appliances, repair shop?

A. That is for the difference between the cost and selling price of 533 second-hand appliances sold from stock at 111th Street shop.

Q. During the period from June 1 to November 30, inclusive, as shown by inventory on file?

A. Yes. The last item is journal entry No. 1179, for $11,140.38.

By Mr. O'Brien:

Q. Is that a loss on the sale of appliances?

The Master: I read the entry: "For the original cost of 2448 gas appliances condemned and destroyed during the period from June 1, to November 30, as shown by the monthly gas appliance inventories on file." 20079

The Witness: A total of $118,547.66, representing the loss sustained by the company upon the withdrawal of the appliances from the capital accounts.

Q. Just separating that condemned and destroyed from the total of $118,547.66, what would you have approximately, Mr. Teele?

A. Separating which?

Q. Deduct the last item of condemned and destroyed from the total of $118,547.66.

A. That is not the only item of condemned and destroyed.

Q. Did you have another one?

A. Yes, the third item was condemned and destroyed.

Q. Subtracting those two what will you have, approximately?

A. You have left $99,394.94.

Q. Now, take that amount of $69,430.99 under
20081 journal entry No. 585 of July, 1918, do the reports from the Commercial Department on file actually set forth the losses entered in the journal?

A. The report from the Commercial Department does not set forth the losses. The report as originally made does not set forth the losses, that is, the original report.

Q. They simply show the sale, the amount received from the sale of the appliances, do they not?

A. With the exception of one of the reports I think there is one of the shops that puts down a figure different from what the other reports do. They are not all alike.

20082 Mr. O'Brien: Have you got those reports here, Judge?

Mr. Ransom: What reports?

Mr. O'Brien: Reports of rented appliances sold on the district.

Mr. Ransom: I have not received any letter from Mr. O'Brien describing the documents which he wants. I have some documents here. If he will indicate what it is he wants I will see whether I have something like it.

The Master: See if you have these reports from the branch offices of appliances sold?

Mr. O'Brien: Those are the books I spoke to your Honor about.

The Master: Are those the books you laid out on the table?

Mr. O'Brien: Yes, sir.

The Master: Is Mr. Davidson here?

Mr. Ransom: No.

The Master: There were some books laid out on the table that I told Mr. Davidson to produce.

(Reports produced.)

The Master: Here are the reports, Mr. O'Brien.

Q. These reports simply show the amount, no other detail? 20084

The Master: Well, you have the reports here. Now, if you want to show them in evidence put them in. They speak for themselves now that they are here.

Q. Do you know whether the inventory values of these appliances appear on these branch reports?

Mr. Ransom: Objected to.

The Master: Objection sustained. The reports are now in court. If counsel desires to spread anything on the record as appearing from these reports they can be put in evidence. There is no use asking the witness what appears on them when they are here. 20085

Mr. O'Brien: For the purpose of showing the sources of the journal entries, your Honor, I will offer these in evidence.

The Master: Describe the one that you are offering.

Mr. O'Brien: The first group of papers offered is, "Branch Office Memorandum Appliances sold below Cost for Six Months ended November 30, 1918," with the word "rental" in pencil mark in parenthesis before the word "appliances."

20086 Arthur W. Teele, Cross.

Mr. Ransom: To the General Office Commercial Department from the Hester Street Branch, signed by the superintendent.

Papers received in evidence and marked Defendants' Exhibit AA-15.

The Master: There are ten sheets in this exhibit, and I will mark each sheet AA-15.

Q. Do you know where these penciled insertions giving the inventory price are put on these reports?

A. Do I know where or when?

Q. Yes. Is it the branch office or the general of-

20087 fice?

A. It is put on at the general office. These branch office reports report the transaction as to the number and type of appliance sold and the price realized for same. The balance of the transaction to be expressed in the accounts has to be worked out in the accounting department.

Q. The Hester Street reports are set up a little differently?

A. The Hester Street superintendent puts down a figure the source of which I do not know.

The Master: That is, the Hester Street branch report that has been marked AA-15, that shows the cost (handing witness exhibit)?

20088

The Witness: There is a cost figure on there, but it is not the cost used in the settlement of the accounts. Where he gets it from I do not know.

Q. He follows that practice of putting it on his report—the superintendent does?

A. I believe his reports all have that figure on there.

Q. It is not used, then, in the main office?

A. It is not used—not made use of.

Q. In making their figures?

A. It is not.

Q. Do you know why these prices were eliminated and other ones put in?

Mr. Ransom: Where, on what?

Mr. O'Brien: On the Hester Street reports.

The Master: On Exhibit AA-15.

Mr. Ransom: You mean so far as the Hester Street branch reports are concerned?

Mr. O'Brien: Yes.

A. Because the prices there are not the last inventory prices.

Q. It increased the amount; that alteration of the figures increase the amount of the figure to be compared with the selling price?

A. I do not recall. I have made no comparison of 20090
them.

The Master: It might decrease it?

The Witness: It might decrease it. I have not looked at it to see.

Q. You have not gone into that?

A. I have not examined it with a view to reaching that conclusion.

Q. Examine it now and tell me what your answer is (handing witness exhibit)?

Mr. Ransom: The paper speaks for itself. The paper is in evidence.

The Master: I do not know whether it shows that or not. I do not think it is important; I 20091
think it is argumentative.

A. On this particular sheet the aggregate cost price that is typed at the branch office is $3,454.99 and the cost value as calculated at the general office and set down on this sheet in pencil is $5,304.63.

The Master: There the general office increased it?

The Witness: Increased the cost.

Q. So that the results that we have in the figuring as to losses depend on the arbitrary inventory price?

Mr. Ransom: Objected to. There is nothing arbitrary about it.

The Master: Objection sustained. That is not the point; the point is it is argumentative.

Mr. O'Brien: Exception.

Q. How do the books treat the subject of appliances condemned and destroyed? They are included in Plant Withdrawn from Service, Mr. Teele?

The Master: I thought that had been covered.

Mr. Ransom: It has been gone over several times.

A. Appliances that are condemned and destroyed are written off at their last inventory value.

20093 Q. You gave us the journal entry items covering those matters?

A. I did.

Q. They record the losses at the original cost, do they not, of gas appliances condemned and destroyed?

A. I think that is the form of the entry that is used.

Q. Do you know whether the amount does represent the original cost?

A. It is what is used as the original cost.

Q. Now, just answer my question.

The Master: The Master states that it is clear from the testimony so far taken that it does not in fact represent original cost, it represents inventory cost based in the manner and fixed in the manner stated by the witness, being the last invoice prices paid for that kind of appliances.

20094

Mr. Ransom: Estimated cost, under the rule.

The Master: I do not know whether it is estimated or not. The testimony is clear.

Q. Did you verify the unit prices used for the various kinds of appliances condemned and destroyed?

The Master: I think he has answered that, but I will let him answer it again. Did you?

A. Yes, we did. We looked back to the inventory

records and to the invoice records, but I think there is one item on there of miscellaneous which is—let me look at it again, please (examines exhibit). The item of Miscellaneous Cookers are all retired on an estimated average valuation of $6 each. That item we did not undertake to verify.

Q. You are reading now from Exhibit AA-15?

A. Yes.

Q. The prices as shown there are from the figures inserted in this branch office report at the main office; is that right?

A. Yes, those are the figures which are used in the 20096
entry.

Q. In connection with this particular class of discarded appliances, that is condemned and destroyed, you did not call for the inventories?

A. Which particular class do you mean?

Q. The one I am asking you about, these condemned and destroyed; did you get the inventories on them?

A. I do not know what you mean by the inventories on them. There is the report which you have before you of the branch office, reporting the condemned and destroyed.

Q. Where is that?

A. I beg your pardon. You have another one be- 20097
fore you. No, that is the report of sales. There is another report.

Q. Look at these, Mr. Teele (handing witness papers).

A. You have not them here, and you have not asked for them apparently.

Q. Why do you say that, Mr. Teele? Why do you say I have not asked for them?

A. I said apparently.

Q. You were present in court the other day when I asked for various books, were you not?

The Master: Objection sustained.

Q. The Journal entry item, if you will look at it, Mr. Teele, shows, does it not, the amount of the cost "As shown by the Monthly Gas Appliance Inventories on File"?

The Master: What number is that?

Mr. O'Brien: That would be 438.

The Master: It reads "As shown by the monthly gas appliance inventories on file," yes.

Mr. Ransom: Make your request. What is it you want? I cannot get you to either write or
20099 state what it is you want. We fumble around trying to give you what you want.

The Master: The Master directs that anything Mr. O'Brien wants will be put in the form of a notice to produce, in writing.

Mr. Ransom: If you will simply give us a letter or a writing—

Mr. O'Brien: I gave you this a week ago. It is on the record.

The Master: Do not let u have any argument about it. I do not recognize any oral requests.

Mr. O'Brien: Well, I asked for these prior to that time. They have these papers now in court
20100 and the witness is confused because he has not got them. As a matter of courtesy I just asked the Judge to hand them to him.

The Master: I told Mr. Davidson to bring down whatever you had on that table.

Mr. O'Brien: Mr. Moeran, who requested you to go up and interview the witness while I am talking to the Master?

The Witness: Mr. Moeran has not spoken to me.

Q. He has handed you papers.

A. No, he has not.

Q. Well, you spoke to him?

A. I spoke to him before he came here.

Mr. O'Brien: Your Honor, I will request that the witness's assistant be asked to take his seat.

The Master: I will not do anything of the sort. Mr. Teele has a right to ask Mr. Moeran to bring him any papers, and Mr. Moeran has a right to stand where he is until Mr. Teele has got the papers he wants.

Mr. Ransom: Mr. Davidson is under subpoena this morning in another court.

The Master: I thought I did see him here be- 20102
fore this morning.

Mr. Ransom: He had to be in another court at ten o'clock. I have various papers here, and if Mr. O'Brien will endeavor to indicate what he wants, I will endeavor to find them until Mr. Davidson gets back.

Q. Did your men call for the inventories, Mr. Teele, to verify that item, "Cost as Shown by the Monthly Gas Appliance Inventories on File"?

A. They did, yes. Just what those were I do not now recollect. There is a mass of this detail which I am not at this time fully familiar with. I went over them with my assistants and directed what should be 20103
done in support of these entries that were made, and in the weeks and months that have elapsed since I did it the full details of these transactions are not fresh in my mind, and without conferring with my assistants and going over working papers again I will not now undertake to say exactly what was done.

Mr. O'Brien: Judge Ransom, Mr. Sangster will pick out the paper if you have it there, showing the statement as to condemned and destroyed appliances.

The Master: And hand it to Mr. O'Brien.

Q. Mr. Teele, I hand you one of these papers that have been handed me by Judge Ransom, and ask you if there are any marks in there, any indications that your men went into these to verify the journal entry items that I have spoken about.

The Master: What are you showing the witness?

A. Without looking at that, I would not recognize any marks that may be upon them.

Q. I will hand you the page for the year, and ask you—

20105 The Master: What are these papers you are handing, Mr. Teele? What are they?

Mr. O'Brien: They are papers that were handed me by Judge Ransom.

The Master: Mr. Sangster has one of them. You better pass them over if you say you are handing all for the year. What do you call them?

Mr. O'Brien: They are marked here "Gas Appliance Entry month of March."

The Master: What do you call them, Mr. Teele?

The Witness: I should call them working sheets used in the Accounting Department.

20106 Mr. Ransom: I don't think they have any part in any proceeding in any court.

Mr. O'Brien: They are the papers that were turned over to our Mr. Sangster by Mr. Davidson.

The Master: I think that every paper in your office that relates to any entry in your books is properly before the court.

Mr. Ransom: Well, I think that is true, and it is for that reason the working papers, the memoranda, the scratch pads and everything that our bookkeepers used has been freely examined by

Mr. Sangster and Mr. Frank; but so far as having particular probative merit on the idea of bringing in here every scratch pad on which a bookkeeper has ever figured, or every working paper on which the bookkeepers have made their additions and subtractions and divisions it simply cumbers the record.

The Master: Well, we will see.

Mr. O'Brien: Your Honor, these papers were turned over to Mr. Sangster by Mr. Davidson as inventories of condemned and destroyed appli-
ances. I am not trying to verify them, but they 20108
are the papers that were handed to us.

Mr. Ransom: Those papers? I do not believe they were ever turned over to anybody, the particular sheet to which attention was directed, as an inventory of anything.

The Master: Don't spend any more time on that. Mr. Teele, you have looked at a number of them, have you?

The Witness: Yes.

The Master: You have not looked at all of them?

The Witness: No.

The Master: The question Mr. O'Brien asks is 20109
whether now, having looked at them, you can tell whether your men used them in any way in connection with their work?

The Witness: I cannot.

Q. I will ask you further, Mr. Teele, whether or not any of these papers which I will ask the Court to mark for identification—

The Master: No, I won't mark anything for identification.

Q. Whether any of these papers give an inventory of appliances condemned and destroyed.

Mr. Ransom: I object to the question. The papers speak for themselves.

The Master: I will let Mr. Teele say whether these papers that he has just looked at are inventories?

Mr. Ransom: All of them?

The Witness: The papers I have just looked at are evidently working sheets used by the Accounting Department, and without conference with the man who used them and the purpose to which they were put, I would not undertake to explain

20111 what they are.

The Master: There is an answer to your question. Go on.

Q. Well, do you know whether your men got any other papers than these papers which I have handed you, to verify the journal entries that we have referred to, covering appliances condemned and destroyed?

A. I will repeat the answer that I made to your question before, that in the amount of detail which there is here, I will not undertake to say what papers they did refer to in verifying that entry. They did refer to some report or record made by the company

20112 on condemned appliances.

Q. You don't know whether these are the reports or not?

A. Whether they are the papers or whether there are other papers, I will not now say.

Q. Would you as an accountant call these papers, or any part of them an inventory of appliances condemned and destroyed?

A. I don't know what these papers in themselves are intended to represent.

Q. From your examination of them here today, would you say that they are an inventory?

A. I have not made an examination of them; I have simply looked at them.

Q. Will you just look over several of them?

A. I will not. I decline to make an examination of them without knowing where the papers come from and how the records were made who made them and the purpose for which they were intended to be used.

Mr. O'Brien: Your Honor, I ask that the witness be directed to take the papers there and state whether or not they contain an inventory.

The Master: No. He says he cannot understand them and won't pass on them in any way, 20114 shape or form.

Mr. O'Brien: Well, he is recalcitrant in that respect. If the Master directs him to answer my question, he will take the paper and look at it and pass upon it as an accountant.

The Master: I rule that he has answered the question. He says that he cannot give any judgment about it, because he doesn't know who kept it, where they were kept and what use was made of them, or anything about them, that from looking at them he cannot tell.

The Witness: That is right. I cannot reach any final conclusion in regard to it. 20115

Mr. O'Brien: Well, I ask your Honor to mark this for identification, so we will know what we are talking about.

The Master: No, if you want to have any one of them marked in evidence as illustrative of papers—

Mr. O'Brien: I will do that.

The Master: Working sheets?

Mr. Ransom: I do not think any one of them will be illustrative, because there are several kinds there.

Mr. O'Brien: I will take the paper covering June, 1918, which was the month referred to in journal entry 438.

Mr. Ransom: I call the Master's attention to several different kinds of paper there.

The Master: I don't care. Mr. O'Brien can offer one or more, and you can offer the rest, if you want to. The point about it is Mr. O'Brien wants to have in evidence one of these papers as illustrating his argument, and I will let him do it.

Mr. O'Brien: We will take June, your Honor.

20117 The Master: All right. The paper you are offering consists of a number of sheets.

Mr. O'Brien: It does: I offer in evidence this paper for the limited purpose of indicating the—

The Master: No, I won't let you do that. If you are going to offer the paper in evidence, it goes—

Mr. O'Brien (interrupting): I offer it the way your Honor suggested it being offered, for the purpose of explaining—

The Master (interrupting): You are offering a paper kept by the company upon which you want to base an argument later on. Of course, I

20118 am not going to hold you to figures that they put in here as binding on you but I do not want you to limit it in any way.

Mr. O'Brien: In any other way?

The Master: The exhibit offered in evidence consists of a number of sheets marked June, 1918, as follows, "Branch No. 1, Branch No. 2, Branch No. 4, Branch No. 5, Branch No. 6 and Repair Shops." There is no Branch No. 3, that is why I am calling special attention to it. On the back of it as folded are some words, "June, 1918." It will be marked as Defendants' Exhibit AA-16.

The paper was marked Defendants' Exhibit AA-16.

Q. Now, I hand you Exhibit AA-16, Mr. Teele, and ask you if there is any description whatever of the appliances condemned and destroyed in the statement there on which the Journal entry item is based?

The Master: Objection sustained, upon the ground that there is no proof here that the Journal item is based on that paper, AA-16. I will let the witness say whether there is anything on there of the character requested or inquired of by Mr. O'Brien. 20120

Q. On that exhibit is there anything there?

A. Will you ask the question again?

Mr. O'Brien: I note an exception to the Master's ruling.

Q. I ask the witness now is there any description whatever of the appliances condemned and destroyed in the paper now before him, being Exhibit AA-16?

A. These columns are headed "Number," "Price," and "Amount." Under Number appears some figures. I assume that they are stock numbers. I should call them—no, it is not. It is the number of the units calculated at the price and extended into the Amount column; and further looking at them, I am still further of the conclusion that these are nothing but bookkeeper's working sheets. 20121

Q. Well, is there any description there?

A. Used in connection with some other records.

Q. Is there any description thereof any of the appliances condemned and destroyed?

Mr. Ransom: I object.

A. I do not read any description.

Mr. Ransom: It speaks for itself.

The Master: The witness has answered the question; he does not see any description of appli-

ances condemned or destroyed on Exhibit AA-16; neither does the Master see any.

Mr. Ransom: There is a column in which entries from the report—

Mr. O'Brien (interrupting): Just a minute, Judge, with your long neck leaning over my shoulder. Let me take up and conduct the examination of this witness.

Mr. Ransom: You cannot conduct it in my name.

Mr. O'Brien: If you will just stand in your
20123 own alley and let me go ahead without interrupting, stating your objections when you want to, I will get along a little faster.

The Witness: Mr. O'Brien, without any further information than what I have had, and after looking at those and looking at my forms here, in which I have made notations, I should say that those were the bookkeeper's working sheets in which he had set down the number of appliances condemned as recorded in the inventory books.

Q. Well, you have said that before.

A. And without setting down any description of them, they are probably taken off page after page
20124 from separate branch inventory books.

Q. That is a statement you have just volunteered?

A. A statement I have volunteered, yes.

Q. Well, now, I call your attention to the 6th page of this Exhibit AA-16, which is headed "Repair Shops," and ask you to note the last column, under the title "Condemned"?

A. Yes.

Q. Is there any description there of "Appliances Condemned"?

Mr. Ransom: I object to the question.

The Witness: I said no before.

Q. Mr. Teele, are these red check marks there opposite each one of those figures check marks made by your men?

A. I don't know.

Q. Well, do they look like the symbols they have been using on these books?

Mr. Ransom: I object to the question. Mr. O'Brien is conducting a line of examination about these working papers and the bookkeepers when he has had brought to this Court the document that does contain the details which he makes a point is not shown on these books. 20126

Mr. O'Brien: I have asked the witness to produce—

Mr. Ransom: You have not asked the witness to produce anything.

Mr. O'Brien: I have asked the witness as to the supporting papers for the entry item covering condemned and destroyed.

The Master: I do not think you have.

The Witness: No, sir, he has not.

The Master: You have not asked any such question.

Mr. O'Brien: I will ask it now, then.

Mr. Ransom: The reports are here, and Mr. Sangster is examining them at this moment. 20127

The Master: Ask your question, Mr. O'Brien. You have not asked any such question as you have just referred to.

Q. Are there any other papers than the ones that are contained—similar to the ones contained in Exhibit AA-16 that give an inventory of Appliances Condemned and Destroyed, supporting the Journal Entries 438 and 1179, which—

The Master: What would your men look at, or what would you have to look at to verify the Journal entry?

The Witness: I assume from the wording of the Journal entry that we would go back to the inventory books wherein is provided a column setting down the condemned appliances.

The Master: Is there an inventory book?

The Witness: There is an inventory book.

The Master: Is it in court?

Mr. Ransom: I have one copy and Mr. Sangster has another, and there is the type of appliances, and there is a column "Condemned," which lists a number of each type.

20129 The Master: Mr. Ransom has given me a book—

Mr. Ransom (interrupting): For each station.

The Master: Which is marked on the cover "Meter and Appliance Repair Shops, Appliance Inventory." I want you to look at that book and state whether it is an inventory book that your men would have to check up with?

Mr. Ransom: And there is a column there "Condemned."

Mr. O'Brien: Don't try to tell the witness any more. I am going to object to it, Judge. You cannot get away with any of that talk. Mr. Teele

20130 will have to answer his own questions without information from you.

Mr. Ransom: I was addressing the Court. If you will have courtesy for ten minutes during this trial, I will continue to address the Court.

Mr. O'Brien: Coming in here under the cover of an address to the Court, telling the witness how to answer. These books are worthy of a grocery store. Talk about keeping a system of books in the biggest corporation in the City of New York—

The Master (interrupting): What question have you got, or did I ask a question?

The Witness: Yes, this is a record—an inventory record which is kept in the branch offices.

Q. You were asked if that contained an inventory, or have you any inventory in court to support the Journal entry item that I have referred to covering Appliances Condemned and Destroyed? I refer particularly to items 438, in amount $8,012.34, and Journal entry 1,179 in amount $11,140.38.

A. I cannot say whether the books which you have asked to be produced here support the entry which you have referred to, without going back into the detail checking of the entry itself. 20132

Q. Well, you have before you a book that Judge Ransom handed to you as containing this information?

Mr. Ransom (interrupting): Let the witness finish his answer.

A. I have a book before me.

Q. And what is that book entitled?

A. "Meter and Appliance Shop, Inventory"—"Meter and Appliance Repair Shop, Appliance Inventory."

Mr. Ransom: The book Mr. O'Brien and Mr. Sangster segregated and asked to have brought down here.

Q. Is it an inventory as to this particular item? 20133

A. It is the inventory record of the movement of appliances in and out of the Meter and Appliance Repair Shop, and is the same kind of a record that is kept at other branches, and records the receipt and delivery of appliances.

Q. Well, now, you have a record there: turn to June?

A. As well as the Condemned Appliances.

Q. Turn to June, 1918, and see if there is any inventory in that month of Appliances Condemned and Destroyed?

The Master: This book I have got doesn't cover June, 1918.

Mr. O'Brien: You have 1917, your Honor.

The Witness: This book only runs to May, 1918.

The Master: And this only runs to May, 1918. Here is an Appliance Repair Shop, appliance inventory, General Office, copy, June, 1918.

The Witness: They only run to May, 1918, when a new book was opened.

The Master: Appliance Inventory, General
20135 Office copy for June, 1918. Just take that and see if it will help us any? I take it your point is, Mr. O'Brien, that there is no such thing as a monthly gas appliance inventory on file?

Mr. O'Brien: That is one of the purposes of the question.

The Witness: This is a monthly inventory of appliances.

The Master: On file?

The Witness: On file. It is a continuous record; it is a continuous inventory record month by month so that it is on file.

Q. Will you say, Mr. Teele, that that supports the
20136 Journal entry item in question which I have referred to, being Journal entry 438, June, 1918?

A. Without having checked the detail of these matters to know whether this is the only source of information from which the entry is compiled, I cannot state, but—

Q. (Interrupting.) You say—

Mr. Ransom (interrupting): Just let him finish his answer, just once, will you?

Q. You are finished, Mr. Teele?

A. No, I am not finished. (Continuing.) But from my knowledge of the records that are kept by the

Consolidated Gas Company to support entries that are made in the Journal, I have no doubt that it is the record from which such information is taken, and if this is not complete, there will be others, equally complete records, by which that entry can be checked.

Q. You are indulging in a little prophecy?

A. I am not indulging in prophecy. I am indulging in my conclusion based upon my experience in the examination of their accounts.

Q. I will ask you now if you would say as an accountant that that book contains an inventory of Appliances Condemned and Destroyed to support this 20138
entry in the Journal that I have referred to?

A. I have already answered.

Q. What was your answer, Mr. Teele?

A. The stenographer can read it.

Q. Well, I will ask you to answer the question?

Mr. Ransom: I object to the question as already answered.

The Witness: I will answer it again if directed to by the Master. I have already answered the question.

Mr. Ransom: Mr. O'Brien sorts out of a great welter of documents which he and his assistants have been examining, and brings these down, and 20139
and wants to ask the witness whether the book that they bring out covers an entry for a period covered by the books after the period of the books they bring down.

Mr. O'Brien: Your Honor, I will ask your Honor to direct the witness to answer.

The Master: Have you another question?

Mr. O'Brien: I do not want to indulge in these side controversies with the sonorous counsel for the complainant here, but I am going to protest against this statement. I have asked the witness

for any record that might support the entry. These are the records that were turned over by Mr. Davidson as the records of appliances condemned and destroyed. Now, if they have some other inventory I will welcome their producing it.

The Master: Next question.

Mr. O'Brien: I want to show them—

The Master: I want to hear another question.

Mr. O'Brien: I will ask your Honor to direct the witness to state whether as an accountant he would say that that book contains an inventory

20141 of appliances condemned and destroyed to support the journal entry No. 438, June, 1918.

The Master: I will not do it because I think he has already answered it sufficiently.

Mr. O'Brien: Well, the answer was a vague, irresponsive answer giving us a eulogy on this grocery store method of keeping books.

The Master: It is sufficient for me.

Mr. O'Brien: Then if your Honor please, I will take the book a minute, and call his attention to that particular column that deals with appliances condemned and destroyed. I am going to ask that this be marked in evidence.

20142 Mr. Ransom: We would be glad to have them all marked in evidence.

Paper received in evidence and marked Defendants' Exhibit AA-17.

Mr. O'Brien: Yes, put them all in as explaining the questions I am asking.

The Master: One is sufficient.

Mr. O'Brien: Let the Supreme Court see the system of bookkeeping of an $85,000,000 corporation.

Q. Mr. Teele, I am going to direct your attention particularly to the column which deals with "Con-

demned" and ask you if you consider that an inventory?

The Master: Objection sustained.

Q. From the branch offices, of appliances condemned and destroyed?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Mr. Teele, from what you know of the work of your assistants would you say that they have gone through the journal and checked up all of the entries with the voluminous data that you have before you?

The Master: Objection sustained. 20144

Mr. O'Brien: Perhaps your Honor does not assume the same purpose for the question that I do.

The Master: But you have had the same question answered half a dozen times.

Q. Mr. Teel, there is a great deal of clerical work on the books of the company, both in the branch offices and main office, dealing with the whole subject of appliances, is there not?

Mr. Goetz: Objected to.

The Master: Objection sustained. Of course there is.

Mr. O'Brien: Exception. 20145

Q. Where is the expense of this clerical help included in your report?

Mr. Goetz: Objected to.

The Master: I will allow that.

Mr. Goetz: It is shown on Exhibit 205.

The Master: I will let the witness point out there on Exhibit 205 he has included the expense of the clerical force handling this appliance business?

A. Various accounts as prescribed by the Public Service Commission.

The Master: Point them out. On page 25 I see, commercial salaries, general expense, applications, index, bookkeeping—would bookkeeping perhaps include some of this appliance business?

The Witness: It may.

Q. Collecting, appliances—that would mean appliance business? Turn to Schedule 10, Mr. Teele.

A. The Master has asked me a question, Mr. O'Brien.

The Master: Page 25. I see under the Hester Street branch you have a number of subdivisions,
20157 you have appliance department—that includes salaries. It is under the heading of commercial salaries?

A. It does include salaries, yes.

Q. Some of those would affect the appliance department?

A. Yes.

Q. Credit department—would that include some appliance department work?

A. Yes.

Q. Cashiers' department?

A. All work that is done—there isn't any clear and distinct line of separation as between a man's time,
20148 absolutely.

By Mr. O'Brien:

Q. Then the expense in connection with that clerical work would run through and be somewhat indicated by these various accounts, work on consumers' premises, ledger folio 773; work on consumers' premises, testing and repairing appliances; repairs to gas appliances, ledger folio 914; commercial salaries, 934; Hester Street collections, 15th Street, 57th Street, Amsterdam Avenue, Third Avenue—all in connection with the bookkeeping and collections, credits, cashier's department, promotion expense, ledger folio 979, and the publicity accounts, and practically all of

the accounts outside of the works isn't that true, Mr. Teele?

The Master: They more or less affect this appliance business, that is so, isn't it, Mr. Teele?

The Witness: Yes.

The Master: More or less?

The Witness: More or less.

The Master: Some may only touch on it?

The Witness: Yes.

Q. What you have just referred to has not included the work done at the main office on this subject, in connection with the general office? 20150

The Master: No, there is work on the general books. The Master will so assume. Objection sustained.

Mr. O'Brien: Exception.

Q. All of this bookkeeping required for the preparation of the inventory, for branch office reports of new appliances sold and rented, for accounting for the receipts and distribution of appliances for various branches and between branches and repair shops, and also for the elaborate computations to determine the losses sustained in the disposal of second-hand appliances, where does all this clerical expense appear upon your report? 20151

The Master: Objection sustained as already answered.

Q. You have not prepared any analysis, have you, Mr. Teele, that would segregate the various expenses in connection with appliances as they are embodied in the various accounts to which you have referred?

Mr. Goetz: Objected to.

The Master: Objection sustained.

Mr. O'Brien: On the theory that he has already answered?

The Master: Yes.

Mr. O'Brien: Exception.

Q. Mr. Teele, could you take this Exhibit 205 and specifically name the accounts that include expenses in connection with appliances?

Mr. Ransom: Objected to.

The Master: Objection sustained. It cannot be done. What is the use of asking him?

Mr. O'Brien: Then he may say that.

The Master: I will not even let him say it. It cannot be done, it is quite apparent. What is the use asking questions?

20153 Mr. O'Brien: He might name some that actually do relate to appliances.

The Master: No, I will not permit any further questions on it. You have made your point on that.

Q. Take the accounts for Commercial Offices and Supplies, on Ledger folio 954—supplies and expenses?

The Master: Page 27, Commercial Offices Supplies and Expenses?

Mr. O'Brien: Yes.

The Master: That would include some appliance expense, too, I suppose.

Q. Did you analyze that account?

20154 The Master: For what purpose?

Q. Did you analyze that account for determining the expenses directly concerned with appliances?

Mr. Ransom: Objected to on the previous grounds.

The Master: Objection sustained. Of course, this Commercial Office Supplies and Expenses touches on appliance business, too, does it not?

The Witness: Yes, sir.

Q. You could not take that amount, say for Amsterdam Avenue, $31,945.99, and tell us what part of it relates to appliances directly?

Mr. Ransom: Same objection.

The Master: I will let him say that once more.

A. No.

Q. Take General Offices Salaries, folio 998, on Schedule 10, page 28. That amount, $133,540.41—part of that would be directly caused by and concerned with appliance business, would it not?

The Master: Objection sustained as already answered. Of course it does. General Offices Supplies and Expenses likewise affects it.

Q. Is it not a fact, Mr. Teele, that a portion of the salaries in at least the following departments is 20156
directly attributable to the gas appliance business: Purchasing Department, $16,402.12—

The Master: Do not give us the figures; just give us the department.

Q. (Continued.) Accounting Department, Cashier's Department, General Stenographers, Telephone Operators, Other Salaried Employees, making a total of $107,858.44?

Mr. O'Brien: They are under the witness's exhibit "Cost to Distribute."

The Master: Yes.

Q. They would embrace expenses in connection with the appliance business would they not? 20157

Mr. Ransom: Objected to.

The Master: I will let the witness state it again.

Mr. Ransom: Exception.

A. Yes.

Q. You have under folio 10, on page 28 of Schedule 10 under the General Offices Expense, ledger folio 1036, an item "Miscellaneous, $81,554.99." Have you analyzed that to know what it is made up of, Mr. Teele?

Mr. Ransom: Objected to as already covered in the examination of Mr. Chambers.

The Master: I do not recall it, so I will let the witness state it again.

Mr. Ransom: And also on the examination of Mr. Brundage.

The Master: That has nothing to do with this cross. I do not recall Mr. Chambers asking the question, so I will let it be asked again. In fact, so far as I can, I am going to let Mr. O'Brien get answers to the questions which he has prepared. Have you analyzed that, Mr. Teele?

A. I cannot say whether I have any separate analy-
20159 sis of it. There is an analysis of it in the ledger. There is a separate column for it in the ledger and all the vouchers and items chargeable under that head are shown in the ledger account.

Q. Do you know what they are, generally speaking?

The Master: I will sustain objection to that on the ground that I have already sustained many objections upon—the book speaks for itself and if necessary we will go to the vouchers. This witness cannot pretend to recall every item of expense included in Miscellaneous, $81,000 worth. Have you any working sheets here that show it,
20160 Mr. Teele? I see Mr. Moeran has handed you some work sheets. If you have it I will take it.

The Witness: I have an analysis here.

The Master: Showing the items that make it up?

The Witness: Yes, sir.

Q. Will you give us these items?

Mr. Ransom: Objected to.

The Master: Are there a great many of them?

The Witness: I can give you a condensed analysis.

The Master: Let us have the condensed analy-

sis. I take it the items will appear in the ledger. I will take the condensed analysis.

The Witness: General office building expense, proportionate share of same—

Q. (Interposing.) Right there, Mr. Teele—well, go ahead and finish.

The Master: Let him finish his answer.

A. (Continuing.) $36,015.94.

Office incidentals, Postage, Telegrams, Stationery, Overtime and Miscellaneous, $18,722.35.

Telephone Service, $10,255.47.

Furniture and Fixtures, $4,346.68. 20162

Books and Papers, $1,994.79.

Restaurant Expense, Proportionate Share of Same, $1,603.92.

Unclassified as Miscellaneous, $4,769.72.

Supervision of Electrical Apparatus, $2,468.55.

Sundry Items, not examined, $10 and under $1,377.57.

The Master: Next question.

Q. That general offices expense item there would include a great many matters, expenditures on account of appliances?

The Master: General office building, he said.

Mr. O'Brien: Yes, general office building. 20163

Mr. Ransom: Objected to as incompetent.

The Master: I suppose in some direct or indirect way it must bear upon appliances.

Mr. O'Brien: Well, the choicest parts of the building are used—

The Witness: That is part of the business of the Consolidated Gas Company, and expenses not directly allocated to direct expenses are made proportionate and spread over the whole business.

Mr. O'Brien: I move to strike out the witness's answer.

The Master: I think it is the answer you want. He says of course the general office expense is.

Q. You have been through the building; you know the uses of the floors, Mr. Teele?

A. No, I cannot say that I do.

Q. Did you not examine this building in connection with your examination of these accounts?

A. I did not.

Q. Did you examine any of the properties except the two branch offices you say you went through?

A. I did not.

20165 Q. You have not been through the works of the various stations?

A. I have been through some of the works.

Q. Are you acquainted with the portions of floors in the general office building that are devoted to the general appliance business?

A. I am not and do not pretend to be.

Q. You have never been in the meter shop at 111th Street and Second Avenue?

Mr. Ransom: Objected to as quite immaterial.

The Master: Objection sustained. Let us get back to the schedule now.

Mr. O'Brien: Your Honor, the witness has

20166 taken the position—at least he did some years ago—that he would have to make an examination in order to make up these items of cost.

The Master: I do not care what he said some years ago. You and I know that we may change our minds.

Mr. Ransom: Earlier in this cross-examination?

Mr. O'Brien: No, earlier in his career.

The Witness: Perhaps I have profited from experience.

Mr. O'Brien: I will come to that a little later.

The Master: If I let you.

Mr. O'Brien: When we come to the accounts that deal with equipment I will bring that out.

Q. I will ask you briefly about the publicity item or publicity expense under Miscellaneous General Expenses; would that include expenses due to the appliance business or concerned with the appliance business, Mr. Teele?

Mr. Ransom: Objected to as already covered and on the grounds heretofore stated.

The Master: Objection sustained. 20168

Q. Turning to page 29 in connection with the same matter, Mr. Teele, you have items there at Ledger Folios 1056 and 1058 for Stable Expense $30,143.02 and Automobile Expense $146,111.75. Does your analysis indicate what use is being made of this equipment by the different departments?

A. What do you mean by this equipment?

Q. Why, stables and things that go with the stable expense and the automobile expense.

A. There is a monthly report showing what the use of carts and wagons and automobiles among the different companies is and the amount that is chargeable to the Consolidated Gas Company and among the 20169 others.

Q. Have you got those set up in groupings or in a condensed form, these two items $146,111.75 and $30,143.02?

Mr. Ransom: I object to the question. It relates to this same effort to segregate out of this business an integral part of it, namely the appliance business.

The Master: I will let the witness answer whether he has analyzed these accounts.

A. I believe that I have. I think I have an analysis

of both the Automobile Suspense Account from which I derived most of the charges charged to Automobile Expenses—

Q. Will you give us the items in this analysis?

Mr. Ransom: Objected to.

The Master: I will sustain the objection.

Mr. Ransom: The books show that fully.

The Master: The items are taken from the books, are they not?

The Witness: They are taken from the books; they are an analysis of the ledger accounts. It
20171 is the only analysis I have.

The Master: I will sustain the objection.

Mr. O'Brien: I note an exception, of course, to your Honor's ruling. I would like to bring this out. I do not intend to spend much time with it.

The Master: What do you want to bring out?

Mr. O'Brien: I want to bring out the same point, and while we are on that subject we might clear up a little mist on some other points.

The Master: What is the mist?

Mr. O'Brien: I am coming to that later on; I am going into that automobile expense pretty
20172 throughly later on, your Honor.

The Master: Just now the objection is sustained.

Mr. O'Brien: Exception.

Q. Can you state from your analysis and your condensed statement setting up these figures to what extent the expenses were incurred in connection with the appliance business?

Mr. Ransom: Objected to on the same grounds.

The Master: Objection sustained.

Mr. O'Brien: Exception.

The Master: Oh, I will let him answer that. Can you state to what extent?

A. No.

Mr. Ransom: Exception.

Q. Is there any record kept by the company as to how the time is spent of these various automobiles?

Mr. Ransom: Objected to.

The Witness: Mr. Moeran, have you with you the automobile suspense analysis? (Witness is handed same.)

Mr. Ransom: The question is objected to These details are fully shown in the books. 20174

The Master: Mr. O'Brien's question is whether there is any book that shows that an automobile took out an appliance, took out a piece of pipe to fix a main with or what?

Mr. Ransom: Those matters are fully shown by the work tickets.

A. My recollection is that the total amount of the automobile expense as shown in the automobile suspense account is distributed to the various companies on the basis of the time reported for the automobile service against the various companies.

The Master: That is not the question. The question is, is there any record which shows whether an automobile has been used to carry an appliance somewhere or to carry a pipe somewhere? 20175

The Witness: No, so far as I know, there is not.

The Master: Or if one of the general offices had taken an automobile to go up in the Bronx whether it went up there on appliance business or on construction business.

The Witness: No, so far as I know there is not.

The Master: Next question. I did not suppose there was, but I wanted you to say it.

Mr. Ransom: There is.

The Master: There is?

Mr. Ransom: Yes.

The Master: Well, this witness does not know it, that is all.

The Witness: I supposed the ticket which is signed for the use of the car showed that.

The Master: You better wait for counsel for the complainant to make a memorandum of it and

20177 bring it out on re-direct.

Q. Do the general offices sign tickets?

A. I do not know.

Q. Did your men ever go into these tickets covering the automobile expense, to verify the reports turned in to the head office?

A. No they took the report by the superintendent of that department of the distribution of the expense

Q. There was not any test made in that particular branch of the company's business, then, such as you made in connection with 350 odd indices of meters?

Mr. Ransom: Objected to.

The Master: Objection sustained.

20178 Mr. O'Brien: Exception.

Q. Have you any analysis of the stable expense to show how that time was distributed there?

The Master: As to how much went into the appliances?

Mr. O'Brien: Yes.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Have you made any analysis of any tickets in connection with the stable?

The Master: Objection sustained.

Mr. O'Brien: You will note, your Honor, that if I get a chance as I go along I will clean up the two propositions, and that is the reason I asked that question. You might as well have it now as later.

The Master: He has already answered that he took the superintendent's report.

Q. That answer as to the superintendent's report covers the expense too?

A. It covers the cartage account, monthly cartage account.

Q. Would you say as to the cartage account too 20180
that the men took the report of the superintendent as to cartage and did not go beyond that to verify it?

A. That is exactly what we did.

Q. On page 31 of Schedule 11 you have a total here of $95,330.22, uncollectible gas bills. Is any part of that amount chargeable to appliances?

A. No, this is uncollectible gas bills.

Q. And have you any uncollectible as to appliances, that are included in this exhibit anywhere?

A. The uncollectibles from appliances are charged against the account the result of which is shown as gross profit on gas appliances.

Q. How is it included in that? Do you mean 20181
Schedule 4?

A. I will have to refer to the ledger account, Ledger A, folio 1138.

The Witness: In the account on the ledger appearing on folio 1148, Gas Merchandise Revenue, which appears in the schedule as a gross profit on gas merchandise appears the entry in December, "General Suspense, Entry No. 1190." By referring to the journal I find that the entry reads, "Gas Merchandise Revenue to General Suspense. Transferring to the former

account the amount of allowances and bad debts written off during the year 1918 applicable to the sale of gas appliances, as per reports from the commercial departments on file."

The Master: How much?

The Witness: $4,610.14.

The Master: That is reflected in the gross profits balance you show on Schedule 4?

The Witness: It is.

Q. Now, take taxes, on Schedule 14.

The Master: No, before you go into that tax
20183 schedule, Mr. O'Brien, that subject was so exhaustively covered by Mr. Chambers that I cannot conceive any question by you.

Mr. O'Brien: Well, this is on this general line. I have just one question to ask him about the appliances. Of course I am not touching on taxes now. I will come to that later, as we go along, and your Honor can make such limitations on my examination as you will.

The Master: Ask this one question and I will see what you are getting at.

Mr. O'Brien: I just want to call his attention to that schedule on page 43, and ask him what
20184 portion of these taxes is chargeable to appliances?

The Witness: I do not know.

Q. From the work that you and your men have done on the books, can you tell?

A. I have made no calculations for that purpose.

Q. Well, is a calculation possible from what you know of the books?

Mr. Ransom: Objected to on the grounds already indicated.

The Master: I will let Mr. Teele say whether it is possible.

Mr. Ransom: Exception.

The Master: I suppose on gross earnings it would be possible, wouldn't it?

The Witness: I suppose a calculation can be made. There may be different points of view as to what calculation should be made. I have not made any such calculation, not attempted in anyway to segregate any portion of the taxes to the appliance business.

Q. Would it be a fair method to take the same proportion of taxes as revenue from appliances the same proportion of taxes as the revenue from appliances bears to the total revenue computed by you. 20186

Mr. Ransom: Objection.

The Master: I will sustain the objection to that for this reason, that there are various classes of taxes. Gross earnings taxes, I can see where it would be fair to take the gross amount received from the appliances as distinguished from gas. On franchise tax I doubt whether that could be done on that basis. The real estate taxes on the gas works themselves surely could not be done in that way. I will sustain it upon the ground that it is not a matter that this witness could possibly pass upon, and I would not take his statement on it. 20187

Q. Well, will you state, Mr. Teele, what you would consider to be a fair method of alloting to the appliance business its share of the taxes?

Mr. Ransom: Objected to as immaterial.

The Master: Objection sustained. I think that is a matter for the Court to determine, not the witness.

Q. When you say you could make a calculation, do you mean that you could approximate what would be a fair amount?

20188 Arthur W. Teele, Cross.

Mr. Ransom: Objection.

The Master: Objection sustained.

Mr. O'Brien: Exception to all these rulings.

Q. Do you know what proportion the revenue from appliances as considered by you bears to the total revenue of the company of the gas business?

Mr. Ransom: Objection.

The Master: Objection sustained. We can compute that ourselves. I can do that.

Q. Have you made any computation, Mr. Teele, of the expense of rental chargeable to the appliance business in the main office or the branch offices of the company?

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A. No.

Q. Have you made any estimate of the value of the space that is occupied for the appliance business in the branch offices or in any of the shops or in the main office at Irving Place and 15th Street?

A. No.

Q. Could you do that, from what you know of the books of the company and the properties that I have referred to?

Mr. Ransom: Objected to on the ground previously stated.

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The Master: I will let him answer that.

The Witness: An arbitrary apportionment could be made. I would not undertake to do it without going into a very careful study of the whole subject.

Q. Well, it would not be arbitrary, would it, if you made a careful study of it?

A. It would then have to be upon some arbitrary basis.

Q. Have you ever seen the ornate office on 57th Street, the branch office?

Mr. Ransom: Objected to.

The Master: Objection sustained. I do not care whether it is ornate or plain. I do not care whether he has ever seen it or not. I do not see what that has to do with a statement from the books of the company as to what the books show.

Mr. O'Brien: Judge Ransom has lately been advancing the witness as a more or less a constructive accountant. He took a view different from your Honor as to the scope of the witness's testimony.

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The Master: Well, whose view do you think will control?

Mr. O'Brien: Yours will control, so far as it goes.

The Master: Well, don't pay any attention to Mr. Ransom as to what the witness's testimony means.

Mr. O'Brien: Although I must say that you change, as the light comes to you, in some matters.

The Master: I try to. I think a man who won't change his mind when he gets further light is a perfect fool.

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Mr. O'Brien: And I hope a full refulgence of light will come to you before you get through with the case, and you will strike out the books and Teele's exhibits as absolutely unfounded and improperly in the case under the rules of evidence that obtain in the federal and state and minor courts.

Q. Now, Mr. Teele, could you say how much is invested in appliances by the complainant company?

Mr. Ransom: Objected to.

The Master: I will let the witness state.

Mr. Ransom: The books speak for themselves.

Mr. O'Brien: He has got appliance stock, appliances rented out to consumers and located in consumers' premises.

The Master: Is there anything in your schedule, or in any of the exhibits that you offered here that pretends to give that figure The amount of capital invested in that? I do not recall any such.

Mr. Ransom: One of the capital account exhibits may show it. It shows the book investment.

20195 The Master: Which exhibit?

Q. You understand, Mr. Teele, I am asking you what the books show, or what your exhibits show?

A. Exhibit 368 shows in a summary gas appliances rented as shown by the books of December, 31, 1918.

The Master: Does it show the gas appliances in stock?

The Witness: It does not.

Q. How much is that amount for rented there in that exhibit you have before you?

A. $1,711,835.46.

The Master: What page is that?

The Witness: The first page, the summary of Exhibit 368, Schedule 4.

20196 Q. Schedule 5, on Exhibit 205, interest on bank balances, etc., 1918. Is that "etc." in the title significant at all?

A. The items entering into that schedule are set forth very clearly in the schedule.

Q. Well, is there any occasion for using "etc." in the title here?

The Master: Why, yes, I can see it myself.

Mr. Ransom: It shows on the face of the schedule.

A. There is one item other than interest on bank balance.

Q. That is the reason you put that in the title?

A. Yes, something else other than interest on bank balances.

Q. Now, you took the bank books—they gave you the pass books—you haven't got here all of the interest on bank balances of the Consolidated Gas Company?

A. I have for 1918.

Q. The interest on moneys other than the revenues from the gas business?

A. You asked me the interest on bank balances.

Q. Yes. 20198

A. This shows the full amount of interest on bank balances carried to the revenue accounts of the Consolidated Gas Company for 1918, as shown by the accounts current rendered to us independently of the books of the Consolidated Gas Company.

Q. What do you mean by accounts current rendered to you?

A. Accounts rendered to us upon request from the bank.

Q. Did you request them of the banks?

A. We did.

Q. Well, does this include moneys other than revenues from the gas business? 20199

Mr. Ransom: I object to the question; it is incompetent.

The Master: I will allow it.

A. It is the interest allowed to the Consolidated Gas Company on all bank balances, whether the money came from one source or another. All of this has been covered before on my cross-examination and on direct.

Q. Well, do you know whether they have any money in any other banks?

A. Their accounts disclose that they have no money in other banks at December 31, 1918.

Q. Did you get into the general ledger?

A. Did I get into the general ledger? What do you mean?

Q. In connection with your examination of the company's books, did you examine the general ledger?

A. I did look at the general ledger enough to determine that it was of no use in stating the accounts of the Consolidated Gas Company.

Q. And what were the reasons for that conclusion?

Mr. Ransom: I object to it, it has been fully
20201 covered. The general ledger was received in evidence.

The Master: I will allow it.

Mr. Ransom: Exception.

A. My reasons for reaching that conclusion were that the entries for all transactions are embodied in the Operating Ledgers A and B for 1918, that the entries embodied in the general ledger, so-called, are posted from a journal called a general journal, and the entries in the general journal are summaries of the debit and credit postings of the operating ledger, and to that extent the results of the operating ledger are reflected in the general ledger.

20202 Q. Why was the general ledger kept, if you know, from your examination of the books?

A. It is my opinion that it is kept for the purpose of condensing the information or the results of the transactions during the year for the purpose of informing the officials of the company more quickly than they could learn by going to the operating ledger and compiling them again.

Q. Did they tell you anything about its uses and purposes when you went to work?

Mr. Ransom: Objected to, the book is in evidence.

The Master: Objection overruled, I will allow it.

A. No, they did not.

Q. Did you ask them why they kept a general ledger where they had operating ledgers covering all of the accounts of the company?

The Master: Objection sustained. I think I have let you go as far as I should.

Mr. O'Brien: Exception.

Q. Did any officer of the company tell you, Mr. Teele, that these were the only accounts that the company had? 20204

The Master: Only bank accounts?

Q. Only deposits?

A. I don't think I inquired of any officer of the company.

Q. You think that you assumed that the account stated on the books covered all of the deposits that the company had?

A. I assumed from the records of the company that these were the only bank accounts for which interest was allowed on balances.

Q. Are there some bank accounts where they are not allowed any interest on balances?

A. I do not recall whether there are or not. 20205

Q. Will you refer to your working papers, exhibits, or the books that have been offered in evidence and that are in court, and tell us whether there are any other accounts of the company in banks or trust companies or similar financial institutions on which they derive no interest?

Mr. Ransom: I object to the question. That was gone into as a matter of fact with Mr. Brundage, in connection with the putting in of the books, as to what accounts there were. This witness has testified as to what the books show.

The Master: I will permit the witness to state what the books show, whether there are any accounts on which they do not get any interest.

A. I do not recall that there were.

The Master: Is there any book in court that you could look at that would show?

The Witness: I have no balance sheet or any working papers here in connection with the balance sheet, to which I could refer.

Q. You can look that up between now and the next session and give us your answer then?

20207 The Master: You mean between now and this afternoon?

Mr. O'Brien: He perhaps cannot do that, perhaps he can do it tomorrow morning.

The Master: I see Mr. Moeran going over to your tin box. Do you think perhaps he thinks you have that here?

The Witness: I do not know, I can inquire.

The Master: Mr. Moeran, do you think you have anything here which would show that?

Mr. Moeran: No.

The Master: Have that here at two o'clock.

Q. I will ask you if any officer of the company

20208 stated to you that they had or had not, that the company had or had not accounts in banks, trust companies or financial institutions of that character not bearing interest?

The Master: That question has been answered several times. Objection sustained.

Q. Mr. Teele, were you shown any other books of account than the books that have been received in evidence, and similar books, for the other years which have not been received in evidence, and the general ledger and the general journal that you have referred to?

The Master: Objection sustained. That question has been exhaustively covered several times as to just what he got.

Mr. O'Brien: With this witness?

The Master: Yes.

Mr. O'Brien: I do not recall it, your Honor.

The Master: I do. I have a very distinct recollection of that. I will not permit any further questions as to what he looked at, or what his men looked at, or what they had to look at.

Q. Do you know, Mr. Teele, from your examination of the books and records of the company, or 20210
from statements made to you by any officers or employes of the company, or from any other information that you may have received outside of the gas company whether the complainant company has any moneys loaned or invested on which they derive interest?

Mr. Ransom: Objected to. If this is meant to relate to this schedule it certainly is not within the scope of this schedule at all.

The Master: It cannot relate to this schedule, but I think the books themselves show investments from which they get dividends.

Mr. Ransom: The books show certain outside investments. 20211

The Master: I will let the witness answer the question.

Mr. Ransom: Exception.

A. The books or balance sheets of the company will show exactly what their investments are.

By the Master:

Q. Do you recall whether they have any money invested from which they get dividends or interest?

A. There are loans.

Q. I recall there were loans, and I recall, too, that they own some bonds and stock of other companies.

A. They have loans, they have investments on which revenue is derived other than investments in the gas business.

Q. Is that in this schedule in any way?

A. It is not.

Q. Why not?

A. The schedule only purports to show revenues and expenses from the gas business.

By Mr. O'Brien:

Q. Right there, Mr. Teele, who set up the line of demarkation for you between what are termed rev-
20213 enues from the gas business and what are termed revenues from other sources?

Mr. Ransom: I object that the question has been asked and answered a number of times.

The Master: Well, it will not do any harm to get it once more.

Mr. Ransom: The uniform system of accounts—

The Master: I don't care about the uniform system of accounts. Who told you where to draw the line between what was and what was not gas operating revenue?

Mr. Ransom: Exception.

20214 A. No one.

Q. Then you based that on your own judgment, did you, Mr. Teele?

The Master: Objection sustained. If nobody told him he based it on his own judgment.

Q. Have you got segregated in your accounts and your figures or set up in any report, working sheet or paper, the amount of the investment of the complainant company in businesses or loans or transactions other than the making of gas?

Mr. Ransom: I object to that as incompetent and immaterial and not within the issues of this case.

The Master: I will allow the witness to state. I think he has already stated that he prepared the schedules with reference to the gas making business. In addition to that did you make up a statement of other revenues and expenses?

The Witness: I have on my working sheets, of course, statements and figures showing the revenues derived from sources other than what are set forth in the schedule.

Q. Will you state what they are?

Mr. Ransom: Objected to.

The Master: Objection sustained. 20216

Mr. O'Brien: On that point I would like to be heard.

The Master: No, I won't hear argument. I am going to stop this long continued argument. I have ruled on it, and when I want to hear argument I will tell you so. This objection is sustained, and I will not hear argument.

Mr. O'Brien: May I ask your Honor the basis of the ruling, so I will understand it as I go along. I except to your Honor's ruling of course, but I want to show you what our contention is. I do not intend to go into any elaborate argument at this time— 20217

The Master: I will answer your question. The witness has said in answer to an inquiry, "Yes, I did run across revenues from sources other than the gas making business. I did not include them in the schedule, because I was employed to prepare a schedule showing the results of the gas making business, the receipts from the gas making business. I have excluded everything else." Now, what he excluded is none of my business. I don't care. If your experts say there is an item that he should have included, call his attention

to it and ask him whether he included the particular item, and if not why not.

Mr. O'Brien: The point I am going to raise at this time is, he set up here what purports to be the returns of this company from the making of gas—

The Master: Yes.

Mr. O'Brien: Now, I want to ask him what moneys this company has on deposit or on loan invested in any form or shape, in use anywhere, I want to find out from him further what analysis
20219 he has made of all these different accounts, how far he has gone to determine to what extent these accounts embrace, embody or include earnings made by the Gas Company from the gas making business in other years, or from earnings invested.

The Master: I do not think it bears upon this case at all. Objection sustained. I do not want to hear any more about it. Next question.

Mr. O'Brien: It has a serious bearing, your Honor, upon the case.

The Master: I don't care anything about it.

Mr. O'Brien: I want to ask the witness further as to how far he has gone into an analysis
20220 of those loans so as to determine what moneys of that kind invested were not from the gas making business originally, in other words, moneys derived from the sale of bonds or the sale of stock.

The Master: Objection sustained.

Mr. O'Brien: That would be highly important in this case, it must be considered, these earnings are of such a vast amount that they must be taken up. I want to say further, so you will understand my position in this connection, that while the Municipal Gas Company decision held that

that particular company, on the facts set forth in the litigation that went to the Court of Appeals, could not be compelled to recoup its losses in the gas business from revenues derived from the electrical side of its business, we have a situation here that is altogether different, where we hope to be able to go into the question, if they do not cover it themselves, to show the relations that exist between the electrical side of this company's business and the gas making side. The amount of money that is invested in one, the way in which they conduct both businesses, and 20222
the relation that they bear to each other.

The Master: Mr. O'Brien, I do not want to hear any more. I have heard enough. Next question. I stand by my ruling.

Mr. O'Brien: I except to your Honor's ruling. Is that a matter that you desire to take up later, or are we to conclude that this ruling is final on that subject?

The Master. This ruling is final on this subject so far as the cross-examination of this witness is concerned. If you have any item that you say he should have included in his tabulation, call his attention to it and ask him if he put it 20223
in, and if not, why he didn't put it in.

Mr. O'Brien: I ask this with all deference to your Honor, so I can make the record clear.

Q. Have you, Mr. Teele, in your examination of the company's books, figured out what funds if any, taken out of the gas making business of the company, the earnings, were put into other investments?

Mr. Ransom: Objected to on the grounds already indicated.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Why did you exclude from this exhibit the amounts of money loaned to the National City Company?

Mr. Ransom: Objected to.

The Master: I will allow that.

Mr. Ransom: Exception. It is quite immaterial.

A. Because those moneys are not invested in the gas business, in the production and distribution of gas.

Q. What is that again?

20225 A. Those moneys are not moneys invested in the production or distribution of gas.

Q. Did you find out where those moneys came from?

The Master: Objection sustained.

Q. Did you make an investigation to find out where the moneys came from?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception to both rulings.

Q. How did you know that those moneys are not moneys invested in the gas business?

Mr. Ransom: Objected to on the same

20226 grounds.

The Master: I will let him answer that.

Mr. Ransom: We are not claiming any return on that.

The Master: I will let him answer that.

Mr. Ransom: Exception.

A. It is self-evident. A loan to a financial institution is not money invested in the production and distribution of gas.

Q. Do you know what the moneys are actually invested in?

A. They are invested in a loan to the National City Company, the item you refer to.

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The Master: Mr. O'Brien, there isn't any useful purpose in following this line of cross-examination. The record shows, and the books show, that a certain amount of money was loaned to the National City Company, and is invested in other directions. The record is perfectly clear that the interest received from those investments is not included in this tabulation. I will hear argument later as to the question of law, as to whether that should not be included in my calculation, but there is no sense of asking this witness any more questions.

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Mr. O'Brien: I think I would like to have a skeleton of the situation in the record, without going foolishly or needlessly into the details of it.

The Master: You have got enough. The witness has said, "I did not include in the tabulation any revenue derived from interest on loans, because I did not believe any part of the revenue to be applicable to the gas business." If you do not agree with him, that is a matter of law that I have to decide. The fact is on the record. I am not at all clear whether this witness is right or not, I would like to hear discussion on it.

20229

Mr. O'Brien: In the particular situation of this company it presents a very deep and intricate question.

The Master: Don't let us argue it.

Q. Mr. Teele, take the loan made to the National City Company, do you know whether the National City Company has loaned any moneys to any of the affiliated companies of the complainant?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. Did your investigation go into the manner in

which those moneys are used by the people to whom they are loaned?

The Master: Objection sustained.

Q. Do you know whether or not the complainant company has any moneys made in the gas making business out on loan at the present time?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Your Honor's ruling would not be the same there, whether they are taking the revenues of this company—if they have any of them on loan at this time.

20231

The Master: I assume that your witnesses are going to point out that there are millions of dollars earned in days gone by. You will not be able to earmark that money to save your life. Your argument will be that this money has been accumulated must have come from the gas making business. It is a matter of law, but don't waste any time on cross-examination. I am not ruling against you now upon the basis of the claim that you make, I am ruling against you on the question of the cross-examination.

Mr. O'Brien: I would like to have on the cross-examination just enough information to clarify the situation for yourself, if you have not as yet made a final ruling or determination in your mind, and which may be presented to the Court, so that they may have something more than the general question and answer.

20232

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Mr. Teele, turning your attention to Schedule 6, "Rental of Jointly Used Facilities" where these rentals are based upon a certain cost, you took the figures from the engineers as I recall it?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

Mr. O'Brien: I was trying to generalize this.

The Master: I don't think you are going to ask any questions about that. I think it has been exhausted.

Q. How far did you go into an analysis of the figures given you by the engineers with respect to items on Schedule 6 on which the computations are made of rentals of jointly used facilities?

Mr. Ransom: Objected to.

The Master: Objection sustained. 20234

Mr. O'Brien: Exception.

The Master: I will not let you go into that. Has Mr. Sangster any questions that he has prepared on that schedule?

Mr. O'Brien: I don't know. I haven't asked him.

The Master: If he has, I will let you ask him. If he has not I will not let you ask a question on that schedule.

Mr. O'Brien: There are two ways in which I am trying to get at this. One is to try to avoid taking up time on matters sufficiently covered, but I have conferred with Mr. Chambers, and I am 20235 going to ask some questions. I am trying to generalize them, but I am overruled on that, and so I will have to particularize.

The Master: I will make a ruling now that will save you a lot of time and save me time. I rule that I will not permit you to ask another question about Schedule 6 of Exhibit 205, on the ground that that schedule was exhaustively inquired into by Mr. Chambers. You will have to go to some other schedule.

Mr. O'Brien: Irrespective of whether my ques-

tions cover matters that were not covered by Mr. Chambers?

The Master: Yes. I repeat that if your expert Mr. Sangster, has anything, any questions that he has prepared for you with reference to any item on that schedule, I will let you ask him.

Mr. O'Brien: I note an exception to your Honor's ruling.

Q. Mr. Teele, did any officer of the company make a statement to you that this was all that these facilities named in Schedule 6—that they all embrace all of the
20237 facilities jointly used?

The Master: Didn't I talk plain English?

Mr. O'Brien: This is extra to Schedule 6.

The Master: Don't work it in as an extra. It affects Schedule 6. I don't want any question bearing upon, appertaining to or relating in any way, or touching on Schedule 6. Next question.

Mr. O'Brien: Your Honor, the whole system is jointly used.

The Master: That is an argument that you can present to me by facts otherwise in the record. I will not permit any further cross-examination on this Schedule. Next question.

20238 Mr. O'Brien: Or any matter connected with the schedule?

The Master: I have made my statement.

Mr. O'Brien: Exception.

Q. Mr. Teele, did you examine the leases in connection with the office building, speaking about Schedule 7, and make your calculations here as to the revenues?

Mr. Ransom: I object. That was all gone into on the preliminary direct and cross. The leases were in court and the whole thing was gone into. He had all these leases in court.

Mr. O'Brien: We had Schedule 7, and that

embraces rent deductions, and a very small part was brought out on cross.

The Master: I will allow this. There was not very much. Ask the question again.

(The question was then repeated.)

A. I have seen the leases. I do not now recall whether they were examined in connection with the rentals or not. The rentals as shown are the rentals that were collected for the period of 1918, and the bills rendered against the tenants of the building or copies of the bills rendered against the tenants of the building were examined by us. 20240

Q. You do not know, then, whether you checked it up by examining the leases?

A. I do not now recall. I have had some of the leases in my own hands and I do not now recall whether we checked all of the leases in connection with the rentals, because the rentals—

Q. Did you make any attempt to find the relative value of the space in this building used by the several subsidiary companies?

A. I have stated already on the record several times that the apportionment of space in the building was taken upon the certification to us of the engineers.

The Master: The question is, you did not go into the question as to whether the amount fixed in the leases as rent was a fair rent? 20241

The Witness: No.

The Master: If you just answer the question, Mr. O'Brien can make his point and we will be through with it.

The Witness: I did not get it.

Q. Did you apportion or reapportion the taxes for the parcels of space occupied by the company and the parcels occupied by the tenants?

A. I did not do what?

20242 Arthur W. Teele, Cross.

Q. Where did you get this subdivision of taxes here on Schedule 7 as to the first item?

A. It is apportioned on the ratio existing between the square feet of space occupied by the Consolidated Gas Company and the square feet of space occupied by the tenants, as certified to us by the engineers of the company.

The Master: I think we have been through that.

Mr. Ransom: Yes.

The Witness: We have been through it. This
20243 is the third or fourth time I have made that statement.

The Master: Yes, we have been through all that.

Q. Mr. Teele, was that division made arbitrarily from floor to floor, without regard to where the space was?

Mr. Ransom: Objected to as fully covered.

The Master: I think it is fully covered, but I am going to let the witness answer this question so it will be perfectly clear on the record. As I understand Mr. O'Brien's point it is this, that the engineer reported to you that the Consol-
20244 idated Gas according to my recollection occupied sixty odd percent of the space in that building and that other tenants occupied the balance. The percentage is not important for my question. Did you apportion the taxes on that basis?

The Witness: Yes.

The Master: You did not have in mind that the part used by the tenants might have been of considerably more or less value than the percentage indicated?

The Witness: No.

The Master: Is that your question, Mr. O'Brien?

Mr. O'Brien: Yes.

The Witness: It was based on the ratio which existed as to square feet occupied.

Mr. O'Brien: In regard to the afternoon session, I must protest to being compelled to go this afternoon when I am proceeding with my cross-examination.

The Master: Objection overruled. The session will be from two to four-thirty.

Recess until 2 o'clock P. M.

20246

Afternoon Session.

By the Master:

Q. Mr. Teele, have you got your working sheets showing in what other banks moneys are deposited?

A. I have.

Q. Were there any other banks in which money was deposited?

A. Yes.

Q. What other banks?

A. Second National Bank. 20247

Q. How much was there?

A. At December 31st the balance was $92,770.29.

Q. No interest allowed on that account?

A. No interest was allowed on that account.

By Mr. O'Brien:

Q. Do you know any other banks in which moneys are deposited, or trust companies or financial institutions?

A. I know of no other banks with which moneys were carried on deposit at December 31, 1918.

Q. Well, at any time during the year?

A. I do not know of any during the year.

The Master: If there were any that allowed interest on deposits, it would show on this statement?

The Witness: Yes, it would show on this statement.

Q. Well, now, Mr. Teele, why haven't you included in your schedule a statement of moneys on hand in various banks outside of these four that are named on the pages of the schedule?

Mr. Ransom: Objected to. Which schedule does he mean? Schedule 205 hasn't any moneys
20249 on hand.

The Master: That is not the point. I think Mr. Teele has said that the only banks in which there was any money on deposit December 31st, is the First National, National City, Corn Exchange, Washington Heights, all of which allowed interest, and the Second National, which allowed no interest.

The Witness: That is right.

The Master: In addition to that, the only cash you found on hand December 31st, was at the general and various branch offices?

The Witness: That is right; that is the cash
20250 balance December 31, 1918.

The Master: You found the total cash on hand December 31st, was $1,256,202.36?

The Witness: Yes.

The Master: Made up as follows: First National Bank, $123,276.56; National City Bank, $887,920.60; Corn Exchange Bank, $43,893.15; Washington Heights, $29,417.23; Second National, $92,770.29; in the various branch offices and in the general office altogether there was $79,014.53, making this total of $1,256,202.36.

The Witness: Right.

Q. Mr. Teele, referring to Schedule 7, of Exhibit 205 will you state how far you analyzed the first item on the schedule, so far as the right-hand column is concerned, "Insurance, Repairs and Other Expenses"?

Mr. Ransom: Objected to as fully covered in the preliminary cross-examination. That was gone into very elaborately.

The Master: I will allow it.

A. The first column, did you say, to the right?

Q. Yes.

The Master: The last column to the right.

A. I examined the vouchers and the data under- 20252
lying the entries charged in the account of Rent Deductions for the year 1918.

Q. That is at what page of the operating ledger?

A. It is 1087 of Ledger B. The amount appearing on folio 1087, Operating Ledger B for the year 1918 the total under the title "Miscellaneous Operating Revenue Deductions," is a total of $205,658.97. That is made up of four separate items, Repairs to Buildings, $3,265.51; Operating General Office Building $129,128.97; Taxes, $71,028.42 and Sundries, $2,236.07. I have set out in a separate column the amount of the taxes, $78,028.42 and deducted that amount from the total of $205,658.97, leaving the 20253
balance of $134,630.55 as the aggregate of the other three columns.

The Master: Well, that $129,128.97 appearing on the first line of Schedule 7 is the same figure that you referred to there as the "Total Expense of Operating the Building"?

The Witness: It is, and it is included in this total of $134,630.55.

Q. You have taken that $8,064.89 under the column "Total" and charged that up to the accrued taxes of the general office building, haven't you?

A. I have not. I do not know what you have in mind.

Q. Isn't your $129,128.97, to which I directed your attention made up of $120,000?

A. There is no $120,000. The item which you were looking at in red as $120,000, is $12,090.74, and that is the total for the month of November only under the heading of "Operating General Office Building," and the total to the end of November for operating general office building is $114,820.13, and the total to the end of December was $129,128.97, one of the

20255 amounts which I have enumerated.

The Master: But Mr. O'Brien is right, isn't he when he says this item of accrued taxes in this column was included in the $129,000?

The Witness: Your Honor, there is no item of accrued taxes in that column.

The Master: Oh, no. That is the line below accrued taxes.

Q. Well, Mr. Teele, the first column on this account "Miscellaneous operating revenue deductions" is entitled "Repairs to buildings," is it not?

The Master: The book so states: the witness need not answer.

20256 Q. And why have you classified all of the repairs to buildings under the item 130 East 15th Street?

A. Into this column "Operating general office [illegible] the proportionate part of the total expenses of operating general office building which was assigned to the revenues flowing from the general office building. These are the taxes that are assigned to properties from which revenues flowed. The other items as shown here expenses in connection with the properties from which revenue flows. So that this account is used for the purpose of accumulating those expenses, which are deducted from operating revenues That is in the shape of—

The Master: You have to analyze that in order to get figures for this general office building?

The Witness: Yes.

The Master: In other words, in this column "Repairs to buildings," you might find some items of repairs to the office building which you have to include in the last column here?

The Witness: I have not so included in any case. This column shows the expenses of operating the general office building $129,128.97, and does not include any of the items shown in the column "Repairs to buildings," and the only item 20258
which I have set down in this schedule against 130 East 15th Street is the item of operating general office building, $129,128.97, as shown in this column, and nothing from this column (indicating).

The Master: Mr. O'Brien's question is why did you entitle this column "Insurance, repairs and other expenses"?

The Witness: Because some of the items which are included in the total are repairs, because the other items other than taxes—taxes are set up separately, repairs to general office building are shown in one item, and the other items are show 20259
in the last column, insurance, repairs and other expenses.

The Master: Well, is there any charge against 130 East 15th Street other than the charge as shown on the first item of this schedule?

The Witness: There are none.

The Master: Well then, there were no repairs to the general office building?

The Witness: Unless there may be some included in the account of the operating general

office building, and without referring back to that account, of which this is a portion distributed monthly, I cannot say.

Q. Did you just take that figure off the ledger, Mr. Teele, without tracing it to its sources?

Mr. Ransom: I objected to as having been gone into in great detail.

The Master: I will allow it.

The Witness: No, I did not just take it off the ledger.

Mr. Ransom: He explained over many pages
20261 of the record once, if not twice before, just what he did.

The Master: Next question.

Q. I am referring to the general office operating expenses. How far did you go to investigate that account, or that amount of money that you charge up here, $129,128.97?

A. We examined all of the vouchers and all of the charges to the accounts for the year 1918.

Q. I am talking about this particular amount now?

A. I am talking about the account about which you asked the question, the expense of operating the general office building.

20262 Q. Is there an account of that name?

A. There is.

Q. What page of the ledger is it?

A. In operating ledger A for 1918, on folio 469 and the succeeding folios, up to 480, are set forth the items charged into the account operating general office building.

Q. Have you excluded any of the items on this account as not chargeable to the gas making business?

A. I have not.

Q. Why not?

A. I saw no reason for excluding any.

Q. Did you see no reason for charging up some of these items to the general administration of the complainant company in matters not pertaining to the gas making business?

Mr. Ransom: I object to the question. He has already testified in great detail about that—that there is an apportionment between the gas activities of the complainant company and the expenses apportioned to tenants.

The Master: I will hear the question again. (Question repeated.)

The Master: Answer that, Mr. Teele. 20264

A. The Consolidated Company's proportion of the expense of operating the general office building is charged to the various accounts represented in the statement filed—in the schedule. I saw no basis for making any other kind of a distribution or apportionment of those charges.

Q. You accepted the distribution here made by the company for your distribution, did you?

A. I did.

Q. Did you give this your personal attention at all, or was the scrutiny of this account left to one of your assistants?

A. The method of distributing the expense of 20265
operating the general office building and the general character of the charges made in the account were examined by me personally.

Q. What steps did you take to find out whether some of these items had not been already included in other accounts in the operating ledger?

A. My own common sense told be they could not be.

Q. Did you deliberate on the matter, or did it ever occur to you to go into that question?

A. I did not have to deliberate on it. My own knowledge of accounting told me that that could not be elsewhere.

Q. Would you consider the Boy Scouts as part of the operating expenses of this company?

The Master: I do not think that that is useful to me. Objection sustained. I do not care whether he considered it so. He said he took them all in as they were. I would not spend any more time on that—at the rate of $18,000 a day.

Mr. O'Brien: Your Honor assumes it cost

20267 $18,000 a day to run this building?

The Master: No, I am assuming that the complainant is losing $18,000 a day, according to its claim.

Mr. Ransom: More than that now.

The Master: More than that now, I must assume, on Judge Ransom's statement, for the purpose of limiting cross-examination where I think it is unnecessary.

Mr. O'Brien: I want to put enough on the record to show the necessity for this examination that I asked the witness about.

The Master: You see, it does not help us any.

20268 He says he took all of the items that you will find in the ledger which were set aside by the gas company as an operating expense; that he did not attempt to review it.

The Witness: I did review it, your Honor.

The Master: What?

The Witness: I did review it.

The Master: Well, he reached the conclusion that they were all right. You did not make any changes?

The Witness: I did not.

The Master: He may or may not be right

about it. The question as to whether an item which appears on the books for Boy Scouts should or should not be included, and whether or not Mr. Teele is right in agreeing with the company's officials, is a question I have to determine.

Mr. Ransom: It is purely a question of law.

Mr. O'Brien: I asked him what check he had made to see that the amount was not duplicated. There are a great many matters in this general office account, and I want to find out whether he did go—if he says, "I did not deem it necessary," or "did not do that," or "my men did not do that," 20270 that will close that particular question. But here I took one of these items in the journal covering operating expenses, G. O. Building, to illustrate the necessity of making such an examination. I took this account No. 928 of 1918 in the Operating Ledger, and I thought this might symbolize or typify some of the entries made and the necessity of making such an investigation.

We have here charged up to the operating of this building various amounts—general office street department, general office, meter department, commercial office supplies and expenses, 15th street branch, promotion expenses, G. A. de- 20271 partment, utilization department, general office supplies and expenses, miscellaneous—that is the biggest item of the whole, $3,141—pay roll department, claims and arrears expenses, the general suspense, which includes Boy Scouts, telephone service, mutual aid society, and then miscellaneous operating revenue deductions,—a total carried out for this particular month of $12,000. The whole scope of that entry would call for inquiry, particularly where the witness says he reviewed it, and the determination as to

whether it is, strictly speaking, an account chargeable to the gas making industry, whether it has not been covered in some other account, whether it is properly chargeable to operating expenses as against the capital expense, and so on.

Mr. Ransom: That is a credit, not a charge.

Mr. O'Brien: What?

Mr. Ransom: That is not a charge.

Mr. O'Brien. What is a credit?

Mr. Ransom: That item 928. It is a credit, not a charge. It is credited to General Office
20273 Building Operating Account. Sundries to Operating G. O. Building. Those other items are credited to that.

Mr. O'Brien: Are you through, Judge Ransom?

Mr. Ransom: Well, until you make your next error.

Mr. O'Brien: I am talking about it being a charge against the building—the Operating Account.

Mr. Ransom: Mr. Sangster would tell you you were in error.

Mr. O'Brien: I am not infallible and am not
20274 one of those who thinks he is, and I am quick to acknowledge if I am in error.

Q. Mr. Teele, is not the amount that I have just referred to the item charged up in the General Operating Expenses as an expense?

A. Which item, Mr. O'Brien?

Q. This one here (indicating in book).

A. The entry which you are looking at is the entry which is made distributing the cost of operating the General Office Building and that portion of the cost of operating the General Office Building which is assigned to the Consolidated Gas Company is dis-

tributed over its various operating expense accounts and credited to the account Operating General Office Building. The balance of the account Operating General Office Building is charged to Miscellaneous Revenue Deductions, as being the portion that is assigned to the portion of the building occupied by the tenants. In other words, the expenses of operating that building are first charged to this one account in order to accumulate at one place the expenses of operating the building, and that portion of it which is assigned to the Consolidated Company is then transferred from here to their various operating expenses, so that their 20276
various operating expenses will bear their proportion, and the Miscellaneous Revenue Deductions Account is charged with that portion which is assignable to that portion of the building from which the rent flows.

Q. Mr. Teele, just a minute before you go away from the books. That $12,090.74 is the total of this particular item that is going to be charged to the General Office Building Account, is it not?

A. This is the credit to the General Office Building Account, in total $17,962.77, and these accounts are charged—$12,090.74 is charged to the Miscellaneous Operating Revenue Deductions. 20277

Q. Turn to page—what is that 1083?

A. 1087? 1087 in the other book?

Q. Well, without referring to the book, you know it is charged up in that account, do you not, to the expenses of the General Office Building?

A. It is charged to Miscellaneous Revenue Deductions, not to the expense of General Office Building.

The Master: Well, it is in the column "General Office Building"?

The Witness: It is in the column "General Office Building," yes, because that account is analyzed.

20278 Arthur W. Teele, Cross.

Q. In the ultimate result is it not a charge against the revenues of this particular building?

A. The whole account is ultimately charged to expenses. Part of it is charged to the classified expenses and part of it is charged against revenues. So far as the net income is concerned it might all have been charged in one place against the income.

Q. It is entered right here as a charge, is it not, on page 1087, $12,090.74?

A. Yes. It is not entered twice.

The Master: It is not what?

20279 The Witness: It is not entered twice.

Mr. O'Brien: I am concerned just now with the Judge's statement that it was a credit and not a charge.

Mr. Ransom: Yes, and there is the credit entry.

Q. Did you throw out any items at all that you found in the operating expense of this company charged up as expenses?

Mr. Ransom: Objected to.

The Master: I am going to let him say it again.

A. Yes.

20280 Q. Where?

A. I threw out $31,250 for donations and it is deducted at the end.

Mr. Ransom: And I find on that, that the statute specifically provides that it should not have been thrown out. Since the matter came up the other day I find that the Legislative Act specifically made that contribution a proper charge.

Mr. O'Brien: We are in a rate case, Judge; do not forget that. Many things that would obtain in ordinary life do not come up in a rate

case. It is all right to talk about the morale and uplift and about patriotism and all the other virtues that enter into a 100 per cent American, but when you come to charge them up in a rate case it is a different proposition.

The Master: Yes, that is right. I did not have that in mind the other day when I said it was a proper charge.

Mr. Ransom: No, the same Legislature that authorized this statute made the authorization for this contribution.

The Master: Yes, I remember that the Leg- 20282
islature passed a special act authorizing corporations to make contributions.

Mr. O'Brien: They did not contemplate that corporations losing $18,000 a day were going to give over moneys that they had not to some good kind cause and charge them up to operating expenses of making gas. They can charge them up to the revenues from the Edison Company, charge them up to the revenues that come from moneys out on loan to the National City Company or anything else, but putting it on the common people in the shape of charges for gas is another thing.

20283

The Master: Let us get to the next point.

Q. Set me right, Mr. Teele, about this Schedule 7. In this column on the right you have items there under the title "Insurance, Repairs and Other Expenses" and you carry that down below and you have a total. And opposite is the entry or the inscription, "Not applicable to the Gas Business." You mean by that that these expenses totalled in that first column are not ultimately charged up against the revenues of the gas business?

A. What page are you referring to?

Q. Page 8.

A. I mean that out of the total of $134,630.55 there are items aggregating $3,972.18 in connection with properties not claimed as being used in the gas business.

The Master: According to the certificates given you?

The Witness: According to the certificate given me.

Q. Did your men bring up for review before you the various vouchers for expenses of the General Of-
20285 fice Building, for you to determine whether or not they should be cast out or included?

Mr. Ransom: I object to that as fully covered.

The Master: I will allow that.

Mr. Ransom: Exception.

A. Numerous vouchers were brought up to me from time to time in addition to those I personally examined. I do not now recall whether there were any particular vouchers included in the account of operating the General Office Building that were submitted to me.

Q. Didn't you know that that is an item that is more or less assailed in rate cases, this General Of-
20286 fice Expense, the amount of it, and the amount chargeable to the gas making business?

Mr. Ransom: I object to that as incompetent, irrelevant and immaterial.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Isn't this a particular class of account that would call for the personal attention of the head of the accountancy staff going into this matter for the purpose of testifying?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. You didn't consider the rents for the various properties outlined here on page 8, with regard to their adequacy for the space and facilities rendered?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Did you go into the leases of these other properties to determine whether or not these payments were in accordance with the lease of those properties?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

Mr. O'Brien: Exception. 20288

Q. Will you say how many of the items on this page were covered by written leases, and what were left to oral understanding between the tenant and the company?

Mr. Ransom: Objected to on the same grounds as previously stated.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Would you consider one dollar as an adequate rental for the lease of a tennis club house at Sedgwick Avenue and Fordham Road?

The Master: Objection sustained.

Mr. O'Brien: Exception. 20289

Q. Did you examine the lease made in connection with this item "Fordham Road frame building"?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Do you know whether the company is deriving rentals from other properties than those that are set forth on this page?

The Master: You may answer that.

A. There is nothing in the records examined by me to so indicate.

Q. Don't you know that they own other properties?

20290 Arthur W. Teele, Cross.

Mr. Vilas: That is objected to.

The Master: Objection sustained.

Q. Haven't you found from your examination of the books that there are other properties rented?

Mr. Vilas: Objected to as not sufficiently definite.

The Master: Objection sustained. He has already said "no." Wait a minute, I will not say that. It will be sustained upon an entirely different ground, namely, that this schedule shows in the rent column that they receive from pur-

20291 poses claimed to be used in the gas business, $192,093.85, and that they get as rent from property not applicable to the gas business another $169,000. It shows on its face. Next question.

Mr. O'Brien: Well, you are making a deduction now, your Honor.

The Master: No, I am reading a statement. Don't I read this right?

The Witness: Correct.

Q. Are there revenues set forth in a particular account, or is there any account for each piece of property in the operating ledger?

20292 A. There is an account in the ledger which accumulates the rent received from properties.

Q. Is there a separate account for each piece of property?

A. I think I answered your question. There is one account in the operating ledger which accumulates the rent revenues collected or charged.

The Master: Is that accumulated from other separate accounts?

The Witness: No.

Q. Where are they accumulated from, items in the journal?

A. They are accumulated from the bills rendered, copies of which are included in the sundry debtors' blotter.

Q. Isn't that a practice to be condemned from the viewpoint of correct accountancy?

Mr. Vilas: Objected to.

The Master: Objection sustained.

Q. Entering directly in an operating ledger from vouchers items of expense?

Mr. Vilas: Objected to.

The Master: Objection sustained

Mr. O'Brien: Exception. 20294

Q. Would you approve of that as an expert accountant?

Mr. Vilas: Same objection.

The Master: The same ruling.

Mr. O'Brien: Exception.

Q. I will ask you, Mr. Teele, to look that up, and see if there are separate accounts kept on these properties, either in the name of the property or in the name of the tenant?

A. I beg your pardon, you didn't ask me whether there was any account in the name of the tenant.

Q. Are we going to get as technical as that in this case? 20295

A. It is not technical.

The Master: No, it is not technical. There is a substantial difference between an account showing the operation of a building, and an account with a man against whom they have charges, a personal account. You may very well find that Mr. Jones, who has rented a building, has a ledger account showing what he owes, and what he has paid, charges and credits in his favor.

Mr. O'Brien: I do not think it is sufficiently important to go back and have the testimony read,

but the way the question was put, with complete frankness, the witness would come forward and say that there was an account with the tenant, or whether there was an account covering each piece of property.

The Witness: I deny absolutely the insinuation made by Mr. O'Brien. His question asked specifically if there was an account with each item of property. They are two totally different questions.

20297 Mr. O'Brien: The purpose of the question was not to deal so much with the titles of the account, as with the substance of it, whether there was a separate account in the books to cover the rental.

The Master: There was nothing in the question that you asked, Mr. O'Brien, that led me to know that you meant a ledger account with a tenant. I thought you wanted the account which would show the operation of the building, as distinguished from a debit and credit account with a man who rented the building.

Mr. Vilas: The question was so framed.

20298 Mr. O'Brien: Perhaps the trend of the question did not appear to the witness. The trend of the question was to find out whether all these items set up there appear in one account, or in many accounts. You recall that I asked him several times, and he came back with the answer that they were added together in one account.

The Master: But that will not appear in a ledger account with the tenant. All that will appear in a ledger account with a tenant is the charge against him each month, and the credit when he pays.

Q. Is there a separate account in the ledger for the tenant of each of these properties enumerated on page 8?

A. Accounts are carried in the sundry debtors' ledger for each debtor of the company against whom bills are rendered by the company. There is no separate account against individual debtors appearing in the operating ledger. There is a control account appearing in the operating ledger, which account carries the totals of the charges made against the individual account in the sundry debtors' ledger.

Q. And what would be the net result on this 20300
Schedule 7, so far as revenues to the company are concerned?

The Master: You mean, what does Schedule 7 show the result to be?

Mr. O'Brien: Yes.

A. Schedule 7 shows the revenues to be $192,322.85 and the taxes, interest on taxes, insurance, repairs, etc., deducted therefrom aggregate $178,146.15, leaving a net revenue of $14,176.70, as shown on page 1 of this exhibit.

Q. Where did you get that $178,146.15?

The Master: Objection sustained. The witness has already told us. 20301

Q. Mr. Teele, are you able to make any comparison now from papers that are in court between this new revenue of $14,176.70, and the net revenue that the company derived from the same sources, with the exception of the general office building, prior to the erection of the general office building?

Mr. Ransom: Objected to as immaterial and outside the issues of this case.

The Master: No, I will let him say whether he can tell from anything that is in court.

A. I have not undertaken to make such a comparison

and I would not undertake to make such a comparison without looking into the elements required.

Q. Where did you get the amount $169,507.27 on Schedule 7, being the amount of rent not applicable to the gas business?

Mr. Ransom: Objected to as having been covered three months ago.

The Master: No, I will let him answer.

Mr. Ransom: We ought not go back to these things every three months.

The Master: That was my mistake in permitting preliminary cross-examination.

20303

Mr. Ransom: The answer three months ago is just as good. There is no use putting it in twice.

The Master: The trouble is that I haven't clearly in my mind whether it was covered or not.

A. The $169,507.27 is the balance left out of $361,601.12, after taking out the rent items set forth on this schedule, and adding thereto the item of revenue of $229 as set forth on this schedule.

The Master: This $361,601.12, is found on what page of the ledger?

20304

A. 1153 of Ledger A.

Q. Did you get it from any other source besides 1153 of the ledger?

A. Did I get what anywhere else?

The Master: The $361,601.12?

A. The $361,601.12 appears on folio 1153 of the ledger.

The Master: Is there where you got it?

The Witness: Yes.

The Master: You didn't find it anywhere else?

The Witness: No.

Q. It came into that book from sundry debtors?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. How is that $361,601.12 made up?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Is it made up of various items set forth in some account?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Where is that figure accumulated?

The Master: Objection sustained.

Mr. O'Brien: Exception. Is your Honor ruling on the ground that this is not important? 20306

The Master: I am ruling on the ground that it has been thoroughly covered, and it is in the book, and that is in front of you. You can look at it and tell where it came from, and I can, and this cross-examination is not useful. It is not worth $18,000 or more a day.

Mr. O'Brien: Do you want the stenographer to take that down?

The Master: I want the stenographer to take down anything I say.

Mr. O'Brien: Well, it is forevermore in that cold record. 20307

The Master: Don't let that worry you.

Mr. O'Brien: I want to get the basis of the division between what is chargeable to the expense and what is not chargeable.

The Master: You have got it.

Mr. O'Brien: We have got it as to the general office building.

The Master: You have got it as to every one of these.

Mr. O'Brien: I don't recall anybody covering that.

The Master: Oh, yes, Mr. Chambers did.

Mr. O'Brien: Mr. Chambers told me he asked no questions on that, and my examination of the record does not disclose it.

The Master: Mr. Chambers is mistaken. This witness has been interrogated very closely as to how he set up property used in the gas business, and not used in the gas business, he told him about certificates given him by engineers, and produced some of the certificates.

Q. Is the Inwood property rented?

20309 Mr. Vilas: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Do you know whether there is any account showing the Inwood property?

Mr. Vilas: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Mr. Teele, tell me about Schedule 8 here. Does this refer to some particular transaction during a brief interval?

Mr. Ransom: Objected to as fully and minutely covered.

20310 The Master: I will let Mr. Teele answer this one question.

A. This item of $905.68 appears in the company's accounts on Ledger Folio 702, Operating Ledger B, and is the charge as set forth on the schedule embodied in a bill against the Standard Gas Light Company, a copy of which appears on the Sundry Debtors' Blotter.

The Master: That is all you know about it?

The Witness: It speaks for itself.

The Master: You don't know any more about it, you don't know what led up to it?

The Witness: No.

The Master: All you know is that a charge was made on that basis.

The Witness: The charge was made on that basis.

Q. Did you say yes to his Honor's question?

A. I said the charge was made on that basis.

Q. Is that all you know about it?

Mr. Ransom: I object to the question.

The Master: I will let him state if he knows any more about it.

The Witness: The bill speaks for itself as to 20312
how the computation is made.

The Master: You don't know anything about it except what the bill shows, do you?

The Witness: That is all.

Mr. O'Brien: I will ask counsel for complainant if he has produced, pursuant to my request, the coal and oil vouchers for 1918 and 1919.

Mr. Ransom: I produce a very large bundle of vouchers which have been in court from time to time on this matter, which I take it embody the coal and oil vouchers.

Mr. O'Brien: Have you other vouchers in court besides these coal and oil? 20313

Mr. Ransom: I have had at various times.

Mr. O'Brien: You did not give us a list of the things you have in court, then.

The Master: If you have any questions, Mr. O'Brien—

Mr. O'Brien (interrupting): I know they have three or four black boxes here, your Honor, and they may say at any time in the course of this case that, "We have had these matters in court right along."

The Master: If you have any question to ask, Mr. O'Brien, you better ask it.

Mr. Ransom: Some of these have already been marked.

Q. Mr. Teele, when we took an adjournment to give you an opportunity to make certain tests in accordance with the directions of the Master, will you state the particular months that you took for that test in the 21st Street station?

Mr. Ransom: Objected to as gone into at great length.

Q. If it covered the 21st Street station?

The Master: I will let the witness state what
20315 months he took.

A. My recollection is that it was the month of May at 99th Street.

Q. It was confined to one station and one month, was it not?

A. Without referring to my working papers and my checking sheets on it, I won't state positively, but I think it was the month of May, 1918.

Q. And in that particular case you took all of the items of expense covering labor, and you went to the foundation sources of the information, as I understand it?

A. I checked the station reports, which was what I
20316 was directed to, back to the records at the station. I checked the pay roll, or the items appearing on the pay roll, back to the time records kept at the station.

Q. Well, did you get the daily reports of the foremen?

A. With regard to what?

Q. Labor.

A. Daily reports of foremen? I do not know of any daily reports of the foremen with regard to labor at 99th Street station. The time books at the 99th Street station contained entries which I understand

are made, memorandum entries, made by the foremen with regard to the time of the men in the works.

Q. And you took those time books and checked them up with the monthly reports made by the superintendents of that station?

A. I took those time books and checked them against the time cards which are signed by the superintendent as being the final and definite record used by the company in the preparation of its pay roll.

Q. Yes.

A. (Continuing.) Against these time books.

Q. And did you check up the records in the manufacturing book of materials used, with the underlying data? 20318

A. We checked the manufacturing reports for that month back against the monthly daily record, and checked that monthly daily record back against the daily hourly record which is kept up at the station.

Q. Well, did you take the daily reports made, to illustrate what I have in mind, from the generator house, or gas making, the gas makers reports, and check them up with the daily entries in the manufacturing book?

Mr. Ransom: I object to the question.

The Master: I will allow it. 20319

Mr. Ransom: Exception. He was not directed to do any such thing, and what he did do was fully covered.

A. At 99th Street station I am not clear as to how far back of the daily record made under the direction of the superintendent we went. We went back to the record of coal received kept by the weighmaster, and I believe we went back through to the gas makers' record for the record of the coal consumption entered on the daily sheets.

Q. Did you see the computation sheets of the clerk

at the works through which the figures from the gas makers reports were transmitted to the manufacturing report?

A. I do not recall the detail working sheets used in the works office to arrive at the conclusion set down in the manufacturing record, but I went to the 99th Street station myself, with my assistant, and checked back the manufacturing report to the monthly daily record.

Q. What do you mean by that monthly daily record?

20321 A. I mean the record in which there is a line for each day, in which is set down the facts set out in the manufacturing report; a line set down for each day, and the total aggregated at the end of the month and those embodied in the monthly manufacturing report, and that the figures set down on the line each day are taken from a record which is made in the works daily and hourly.

Q. Well, some of those figures are subjected to computation after they come from the generator house and before they are entered in the manufacturing book, are they not?

Mr. Ransom: Objected to.

20322 The Master: Overruled. I will take the answer.

Mr. Ransom: Exception.

A. The record is made under the direction and under the supervision of the superintendent, and is kept there for his guidance and for the purpose of making up his report, and whatever adjustments are made are made under his direction, whatever they may be I can not say at this time what they are.

Q. Well, to illustrate, you say your men checked up the report from the different employees with the record put in for each day in the manufacturing book.

Now, I ask you, isn't it a fact that the figures that came in from these sources to the works office are subjected to computations before they are entered in the manufacturing book?

Mr. Ransom: Objected to as vague, indefinite, and fully covered in a very specific way.

The Master: I will allow it.

Mr. Ransom: Exception.

A. If you mean by computations, the setting down of the figures and adding other figures to them or deducting other figures from them, I would say that there are computations made, of course. 20324

Q. The record of the oil comes in in what shape?

Mr. Ransom: Objected to as fully covered. We went for hours and days into this matter of oil and coal.

The Master: I have been hoping Mr. O'Brien would come to a point where he would ask a question bearing upon this tabulation. I am going to allow this question.

Mr. Ransom: Exception.

Mr. O'Brien: Your Honor, I have taken- -you recall now that I am not asking him about anything other than the particular month of the particular year in the particular station where he made the test. 20325

The Master: Yes.

Mr. O'Brien: On which he is predicating his general conclusion that all of these books are reliable, and you can not—

The Master: I am going to allow this question.

Mr. O'Brien: I will illustrate. The Judge says it is vague.

Q. Your oil comes in on a report to the work's office which gives some figures, of some kind—comes into the work's office.

The Master: What is the last question?

(The question was repeated by the stenographer.)

The Master: Answer that question, Mr. Teele.

The Witness: It comes in on a report to the works office. Just what it is I do not recall at this minute.

Q. Mr. Moeran has just handed you a paper?

A. He has handed me a paper which is the record of work done at that point. There is a record at the 99th Street station of the gas oil on hand daily,
20327 and the record of manufacture is based upon the difference in the measurements after taking into account the amount that is received.

Q. Well, that doesn't quite answer my question. I asked you how the report comes in to the work's office of oil used, not speaking of deliveries, just now. What oil is used?

Mr. Ransom: I object to the question. That computation has been fully covered, with vouchers and exchange certificates, and all spread on the record.

The Master: Objection sustained.

Mr. O'Brien: Your Honor, I am trying to
20328 find out by this testimony—this is not a process—

The Master: I have let you go far enough, in my opinion. Objection sustained.

Mr. O'Brien: The witness has a question unanswered.

The Master: I have sustained the objection to it. I think I have permitted enough cross-examination.

Mr. O'Brien: Your Honor, I am trying to bring out the fact that they have not made a test.

The Master: I won't let you bring it out any further. Objection sustained.

Mr. O'Brien: Exception.

Q. Are you able to state, Mr. Teele, in what form the report comes in, daily or oftener than daily, to the clerk's office at the works, indicating the quantity of oil used per day in the manufacture of gas at that station?

Mr. Ransom: Same objection.

The Master: Objection sustained.

Mr. O'Brien: Exception.

...

Q. Did your men, when they made this test cov- 20330
ering the month of May, 1918, at the 99th Street station, check up the reports that came in as to coal used, with the records finally made in the manufacturing book?

Mr. Ransom: Same objection.

The Master: Objection sustained.

Mr. O'Brien: Your Honor, this is a vital matter right here. You are depending upon this test for one judgment or another, whatever it may be, and I want to give the witness full scope to state what it is, so that the record, if he has made a reliable test, the complainant will have the benefit of it and the benefit of a record here 20331
that it was reliable; if it was not made thoroughly, if they omitted to find out, to trace these entries in the manufacturing book to their original source, then your Honor ought to know it, and I think with a few questions we can dispose of that, if the witness will answer what I put to him.

The Master: I won't take any more examination on it.

Mr. O'Brien: Well, I will note an exception and ask counsel for the complainant if he wants to

have the record closed on that statement as to the tests that were made at the works at 99th Street station.

The Master: Counsel need not reply. My ruling is made.

Mr. O'Brien: Counsel was silent before your Honor told him not to reply.

Mr. Ransom: Counsel for complainant is usually silent.

The Master: I have limited the cross-examination at this point.

20333 Mr. O'Brien: Well now, I have got some very important reasons for getting this on the record and having the witness testify, your Honor.

The Master: I can't help that.

Mr. O'Brien: I will ask the same questions with regard to the coal used.

Mr. Ransom: Same objection.

The Master: Objection sustained.

Mr. O'Brien: There hasn't been any asked on that yet.

The Master: I thought you asked a general question.

Mr. O'Brien: No.

20334 The Master: Go ahead.

Q. Will you state on the record how the record comes in as to coal used in the works to the works office?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Will you state whether your men went over the computation sheets by which the figures turned in from the works to the works office as to coal used were converted into their figures put in the manufacturing book for the daily and monthly record?

Mr. Ransom: Objected to.

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Were there any formulae used in the works office to turn the record of the measurements on the oil tanks, of oil used per day, into final figures, giving the gallons of oil used per day as recorded in the manufacturing books?

Mr. Ransom: Objected to.

The Master: Same ruling.

Mr. O'Brien: Can you not see, your Honor, right here, that if the measurements there, as I assume they are, and made, they have a yard-20336
stick to stick down into this tank, and they make that measurement and there will be recorded the position of the oil the day before and the position at the close of the day; they will use a certain formula and apply it to that particular oil. Whether they use any variations or coefficients to cover any variations in temperature I would like to find out also, but upon your reliability of that depends your whole structure of the oil used, and that can be brought out with a few questions. I would ask that we be permitted to press these questions.

The Master: No, I will sustain the objection. 20337

Mr. O'Brien: Exception.

Q. In the record made in the manufacturing book, Mr. Teele, as to oil used, are the measurements made in the oil tanks taken as conclusive?

Mr. Ransom: Objected to.

The Master: Before I rule on that I want to give Mr. O'Brien what is in my mind. This witness has prepared a statement showing that there is used a certain amount of material at the different stations. If Mr. O'Brien will ask this witness how, for instance, he figured the amount

of oil used at the 21st Street station, water gas oil, and how he checked that up and to point out or bring out from the witness the points at which Mr. O'Brien says that the witness's statement that there was that much oil could not be checked up and that it was not right, I will let him ask it. I will not permit you to ask any more of these general questions.

Mr. O'Brien: Up to a minute ago, your Honor, my examination bore largely upon the tests that were made. I wanted to see how thorough that
20339 test might be.

The Master: All right. I have ruled out that question and will not permit any more. Some of those same questions may be proper and applicable as attacking a particular item here.

Mr. O'Brien: Well, I am coming to that, your Honor.

The Master: If you will get to that I will let you ask some questions, but I will not let you ask these. Objection sustained.

Mr. O'Brien: Your Honor is running through a pretty narrow pathway.

The Master: I have got to when the complain-
20340 ants say they are losing over $18,000 a day. I have got to eliminate everything that will not be helpful to me.

Mr. O'Brien: The defendants have put in an answer in this case, your Honor.

The Master: Yes, and I am eliminating everything but what is useful. Let us get down to it.

Mr. O'Brien: Will your Honor permit the last question as to the test made?

The Master: No.

Q. What record do you follow in the matter of oil

you used for the purpose of accumulating your figures as to gas oil chargeable to operating expenses for any station?

The Master: I will not permit it at this time. You have got to get down to some concrete question and some concrete item.

Mr. O'Brien: Exception.

Q. Mr. Teele, have you taken the vouchers as to the record of oil delivered to the company, or have you depended upon the measurements made by the employees of the company?

Mr. Ransom: Objected to as fully covered. 20342

The Master: What item are you referring to now, Mr. O'Brien?

Mr. O'Brien: I have not taken up a particular station, because I have not before me the vouchers now.

The Master: I will not permit the question in that form.

Mr. O'Brien: Your Honor, I want to show you that my question is perfectly proper, and I will come right out and tell it to you. Everyone of those vouchers shows a wide variation between the measurements made by their own employees and the measurements given to them 20343 by the Gas Company.

Mr. Ransom: That has all been gone into.

The Master: Bring it out and show it.

Mr. O'Brien: I want to show if they are depending upon the manufacturing record *in re* oil used per day at the works, if they are depending upon the measurements of the men who were employed there to go out and measure those tanks, then the question will arise why they do not, as to the stock of oil, take the measurements of the same men instead of some representative

20344 Arthur W. Teele, Cross.

of the Produce Exchange or the Standard Oil Company.

The Master: Do you want me to take this witness under cross-examination?

Mr. O'Brien: I do not.

Q. In making up your figures as to Schedule 9 and the similar figures covering oil used you had occasion to cover the oil stock account, I assume Mr. Teele?

A. I did.

Q. Did you ever check it up?

20345 A. I did.

Q. With what?

A. I checked the inventories with the reported quantities of oil on hand at the stations, as shown by the signed reports of the superintendents. I checked the quantities received against the invoices and the station reports as to the quantities received.

Q. Now, I ask you—

Mr. Ransom: Let him finish his answer.

A. (Continued.) And checked the quantities used against the station reports. I verified the quantities used by—

Q. (Interrupting.) Just a minute. You checked

20346 the quantities used?

The Master: Do not interrupt. Let him finish.

A. (Continuing.) I verified the quantity used by taking the inventory at the beginning of the year and adding to it the quantities purchased during the year, deducting the quantity reported on hand at the end of the year, leaving the balance as used oil, and it agrees with the quantity reported as used at the manufacturing stations.

The Master: What I have been trying to get Mr. O'Brien to do and what I will have to do myself—

Mr. O'Brien: All right, I will proceed to ask this witness—

The Master: Now wait a minute. As to gas production, 42nd Street station—

Mr. O'Brien: I would like to take this examination myself, your Honor.

The Master: You are going to wait until I get this question. There is an item of water gas oil $840.26. Am I to understand that that item of $840.26 is arrived at in the way you have just described?

The Witness: It is. 20348

The Master: By finding what the amount of the inventory was on hand at the beginning of the year, adding to it the purchases or deliveries during the year to that station, subtracting from it the amount left at the end of the year, the difference would show you the amount of oil used during the year?

The Witness: Yes.

The Master: At what price did you figure this $840.26? I picked out the smallest one because I wanted to get the smallest item.

Mr. O'Brien: That would not be typical up there. There is only one man working on that job. 20349

The Master: You will not get to it, so I will.

Mr. O'Brien: I take some station that is typical, that is all.

The Master: But I can not get you down to an item.

Mr. O'Brien: While he is looking that up let me go directly to the vouchers on which he says he has based some of these figures of the oil delivered.

20350 Arthur W. Teele, Cross.

The Master: No. Wait a minute until I get the price at which he took that $840.26 item.

The Witness: The balance in the inventory on hand January 1, 1918, was taken at a valuation of 3.04 cents per gallon. There was no oil received at 42nd Street station during the year. There was reported as used at 42nd Street station 27,621 gallons at the same valuation, amounting to $840.26 during the year, and that number of gallons deducted from the inventory at the beginning of the year at the same valuation leaves
20351 us with the balance on hand at the end of the year as reported of 147,289 gallons at the same valuation, or a book value of $4,480.72. That is only the 42nd Street station and there were no receipts of oil during the year.

The Master: Now the next question.

Q. Mr. Teele, the oil stock account figured in your computation, did it not?

A. What do you mean by the oil stock account? I do not understand your question, Mr. O'Brien.

Q. The vouchers were used in your computation, were they not, of this expense?

A. There were no vouchers in connection with
20352 this particular item about which I am questioned.

Q. I am taking the oil in any one of the stations.

A. No.

The Master: Let us take 21st Street. We have an item at 21st Street of one million dollars or more. It is $1,816,439.87.

Mr. O'Brien: Yes.

The Master: You question the accuracy of that item, do you?

Mr. O'Brien: I am examining the witness about that, yes.

The Master: You are doing it because you are questioning the accuracy of the item; is that not so?

Mr. O'Brien: It is partly to question the accuracy and it is partly to find his method.

The Master: Unless you tell me your question the accuracy of that item I will not let you ask a question on it. What is the use of wasting time?

Mr. O'Brien: I question the accuracy of it. You and I have discussed the question as to how far I ought to tell you what errors I have found 20354
out before I am allowed to cross-examine the witness. I do not think your Honor intends to press that rule here.

The Master: Yes, I do.

Mr. O'Brien: But what I am driving at here is—

The Master: If you cannot tell me how much your man figures the oil at that year, and unless it was less than $1,816,439.87, I will not let you ask a question. We are not asking questions to amuse ourselves here; there is no fun in it.

Mr. O'Brien: I intend to ask the witness and present to this witness now the vouchers for the 20355
invoices of oil delivered during the year 1918 at East 21st Street, with the view of finding out whether he has followed the invoices and the measurements shown on the invoices, or records made by their own men.

The Master: The Master announces and wants to make it as clear as he can possibly make it, that unless Mr. O'Brien asserts on the record that the statement made here that there was used $1,816,439.87 worth of oil during the year 1918 is incorrect, and unless Mr. O'Brien states in

20356 Arthur W. Teele, Cross.

what respect it is incorrect and what he claims with reference to that item, I will not permit a question to be asked. Have I made myself clear?

Mr. O'Brien: I must say this with regard to your Honor's ruling, that I certainly will take an exception to it, and I think that you are not within your—you are violating my rights and the defendants' rights by making a ruling that will limit cross-examination in a rate case to those matters only which we set up as, and claim to be erroneous. In other words, I am demurring generally
20357 to your Honor's ruling and taking an exception.

As to this particular item, if I am not to be allowed to bring out from the witness the testimony by questions and answers in my own way, in my own way to mold my own cross-examination, I will say to you directly, your Honor, that these vouchers, these invoices, do not conform to the measurements taken by their own men.

The Master: I do not care anything about that.

Mr. O'Brien: And that they have followed the invoices in each instance, instead of the measurements made by their own men, as shown on the
20358 back of each one of the invoices.

The Master: I do not care anything about that. I want to know how much oil you say they used.

Mr. O'Brien: I am not going into that just now, your Honor.

The Master: Then the objection is sustained.

Mr. O'Brien: And I have these invoices here and ask that they be marked in evidence.

The Master: Yes, I will do that for you. Bind them up. They are marked in some form?

Mr. Ransom: 1918 Gas Oil Vouchers.

20359

Mr. O'Brien: Let me before you mark them up state—

The Master: No, I will not let you state anything. Bind them up.

Marked as one exhibit Defendants' Exhibit AA-18.

Mr. O'Brien: I insist, your Honor, with due deference to your view of the matter, that I am entitled to cross-examine this witness as to the details of the Schedule 9, showing expenses of cost of gas production, without interference from your Honor under a rule which you have just made, that cross-examination of this witness is to be limited by you to those matters only which I am prepared to say are errors in said schedule.

20360

I assert that I have a right, and am properly within my rights, representing the defendants, to ask the witness as to the methods by which he made the tests that he said he made under your Honor's direction during the course of this trial, at the 99th Street station, upon which tests he has predicated his conclusion that all of the records with respect to the matters therein tested were infallible and correct. I insist that I have the right to proceed to cross-examine the witness as to all the details of this particular schedule, where these items came from, and if he says in the ledger, that they are taken bodily from the ledger, how they got into the ledger, from what accounts; how far he went in his investigation of the correctness of those accounts; whether or not the records in which he sought verification of the several items set forth in the schedule and in the ledger were found in papers that are not in evidence in this case—in other words, that are extraneous to the case.

20361

I insist that the Master has not the right to mold the questions and mold the cross-examination, to take the cross-examination of a witness into his own hands and proceed to bring out the matters which I desire to bring out in my own way. As to the particular matter, the specific matters before me at this moment, to wit, the question of the deliveries of oil at the 21st Street station, where upon their face there is a discrepancy with respect to practically every one of the invoices, between the measurements made by
20363 some employee at the works and the measurements made by the Standard Oil Company of New Jersey and Charles Martin & Co. employed to measure the oil, I have a right to cross-examine the witness as to whether he took the invoice prices and why he discarded the records that are made by the employees of the company, in the face of the fact that the measurements of oil used are made by these employees and finally recorded in the manufacturing book.

The Master: Just now you offered in evidence the bundle marked 1918 Gas Oil Vouchers.

Mr. O'Brien: I respectfully submit, further
20364 your Honor, in regard to the proper scope of a cross-examination in a case of this kind, that we are entitled to examine the witness as to the manner in which he made up his various schedules, with a view to outlining our own examination of these papers if we see fit to make such an examination with a view not only to facilitating our own work, but with a view to expediting the trial if it reaches that point where the defendant put in any evidence.

The Master: Mr. O'Brien, I have heard all I care to hear on it. I am firm in my resolution that

I will not permit cross-examination upon any subject, in any manner, unless you can show me where it is wrong and where cross-examination will be useful.

Mr. O'Brien: But your Honor has made that ruling. You hinted at it yesterday, but you have made that ruling now for the first time, and we have been trying this case for four months.

The Master: There is no use arguing it with any more, I have tried in every way I could to give counsel for the defendants every possible opportunity to bring out their case. After five 20366
months we are making no headway, or not making the headway that we ought to make, and I have reached the conclusion that unless counsel will point out the claim with reference to a particular item I will not permit cross-examination. All of these vouchers are in evidence; any other vouchers you want can be put in evidence; any other books you want can be put in evidence, and your experts can go on the stand and give their version of it.

Mr. O'Brien: We are not compelled to put experts on the stand, your Honor.

The Master: If you do not want to do it you 20367
need not, but my ruling will stand.

Mr. O'Brien: There are other branches of the examination I want to take up.

The Master: Well, you better take them up.

Mr. O'Brien: And which will very likely infringe on the ruling you have just made.

The Master: Then I will sustain objections to them.

Mr. O'Brien: Do I understand that I must stand and deliver to the Master my reason, and my evidence of errors, before I will be permitted

to cross-examine the witness as to the method he has adopted?

The Master: I do not want your evidence of errors; I want your claim; I want your contention; I want what you say is the fact. You have had Exhibit 205 for months and if you cannot tell me now in what respect you claim this item of $1,816,439.87 is wrong, and how much you say it ought to be, I will not let you ask a question.

Mr. O'Brien: Your Honor, I call your attention to these invoices that of themselves show
20369 errors; I call your attention to the statement of the witness that he followed the invoices; I call your attention to the fact that when I asked him as to how he got his measurements of oil, how the records of oil used got into the manufacturing book at the stations, the witness was not able to answer; I call your attention to the fact that at various times during the examination to-day and since he has been on the stand, he has failed to give answers until his assistants brought him up information either written or oral.

Now, in regard to the questions that we have before us, I say with all deference to you as the
20370 referee in this case that your Honor has no right to say that before we can cross-examine a witness we must say, "Here is an error, and I want to ask the witness about it." Your Honor has said that you want a general statement—our claims are set forth in our answer to the complaint in this case.

The Master: That is not enough for me.

Mr. O'Brien: Our claims with respect to the measurements of oil are that they are not kept reliably. Our claims with respect to the records of oil delivered is that they are manifestly erron-

eous. Our claims with respect to coal delivered are practically the same. I have a right to bring out from this witness in regard say as to boiler house fuel the fact—and as to generator fuel—the fact that the labor of handling that material to put it in the coal pile is charged up in a specific account in the operating ledger; that the labor involved in handling material and producing gas in the generator house is taken care of in a column or in an account specifically set forth in the gas production account; whereas as to the handling of coal from the coal pile into the generator 20372
house it has seemingly not the dignity or importance to be recorded similarly in the operating ledger.

The Master: Mr. O'Brien, you had better ask your next question. I know your point of view. I have made up my mind about what I am going to do.

Mr. O'Brien: Your Honor, you approach a very grave point when you conclude as you have. It is unprecedented, and it certainly does not do justice to the defendants.

The Master: I hope it does.

Mr. O'Brien: I gave you specific objections 20373
to these items, and I insist with all respect to you as the Court here that we have a right, within proper bounds, to examine this witness to see how he has checked up these accounts.

The Master: I disagree with you.

Mr. O'Brien: The effect of your ruling is to put the burden on the defendants in this case.

The Master: I am going to make this statement for the last time. I will not argue it with you for another minute. This case is an unusual case, it cannot be followed or tried upon the ordinary

rules of the trial of a law suit. Ordinarily defendants are not permitted to go into the place of business of the plaintiff and examine the records and accounts to the end that, having in mind that this case might take years to try otherwise, they should come into court and place their cards upon the table and indicate the points at which the friction comes, where the issue is, what their contentions are, and bring them out fairly before the court, so that it may be quickly disposed of. In view of the opportunity afforded to the defend-
20375 ants to go into these accounts for months, I will not permit another question on any item on this schedule unless you tell me what your men claim about it. Now, let us understand it. If I am wrong about it this case will have to be reversed, but I will not sit here another year to try this case when I do not think justice demands it.

Mr. O'Brien: I will except to your Honor's ruling. I have given you my views as expressed. I would like to be heard further on that question.

The Master: No, I will not hear any more.

Mr. O'Brien: I would like to be heard further in the claim that follows a long cross-examina-
20376 tion. I think your Honor should defer this action until Mr. Chambers and the other representatives of the defendants in the case are present.

The Master: No.

Mr. O'Brien: This is a very serious matter, and your ruling is bound to have a tremendous effect on this case.

The Master: You need not worry about Mr. Chambers. I had the same argument with Mr. Chambers the other day on Exhibit 366, I think it was. I told him then he would have to look not alone at the records of the company, but at the

work sheets of Mr. Teele and his staff before I would let him go ahead with his cross-examination, that I would not let him go on any fishing excursion. I announced that a week ago.

Mr. O'Brien: As your Honor's statement tapered down at the close, when you made a direction that the defendants proceed to meet the employees of one Arthur W. Teele and go over with them some working papers that they had, and discuss with them where they got certain figures, your Honor stated at the end of your discussion, putting a somewhat different phase 20378
upon your position than at the beginning, that this was with a view of expediting the examination so that the defendants might be better able to cross-examine the witness as to that certain exhibit, 366.

The Master: That is precisely what I say now, and what I say is that you have had four months to be prepared to point out where Mr. Teele is wrong and get it on the record; and if you can't tell me what you want to point out I will not let you ask another question.

Mr. O'Brien: Your Honor seems to assume that the defendants' case is being tried here. We 20379
are on cross-examination of the witness. There has been no proof adduced here yet except the general books of account, and these exhibits as to expenditures made by the company, except perhaps as to the testimony of Mr. Addicks and Mr. Gawtry as to the manner in which coal contracts are made.

The Master: Mr. O'Brien, I have known you so many years that I hate to cut you off—

Mr. O'Brien: You are cutting off the defendants.

The Master: What I am doing is cutting off further discussion. I do not want you to feel that I do not want to be patient with you, but there is nothing more you can say about it that will change my views.

Mr. O'Brien: I do not think you are fair to the litigants in this case, and I mean the complainants as well as the defendants, because the complainants will suffer from the position taken by the Court.

The Master: What I want to say is that I do
20381 not want to hear any more discussion. If you have another question to ask, ask it, and let me rule on it.

Mr. Clark: I desire to except to your Honor's ruling, in addition to what Mr. O'Brien has said.

Mr. O'Brien: Your Honor, I will ask that the court adjourn until tomorrow morning so that I may take this matter up—

The Master: No, I am going to sit until half-past four.

Mr. O'Brien: So I may take this matter up with all of the defendants that are involved in the case. It is a very serious situation and must be
20382 discussed with both Mr. Chambers and Colonel Hayward.

The Master: No, I have got to go ahead.

Mr. O'Brien: And with the Corporation Counsel, in regard to these matters. It comes by surprise at the end of the day's examination. It has never been announced before yesterday that you were going to take a position of this kind with respect to the cross-examination of the witnesses in this case.

The Master: I am going to ask you to go on until half-past four, Mr. O'Brien.

Mr. O'Brien: Right away I am met by your ruling. I cannot tell how far you intend to extend that rule.

The Master: I am going to hold you right down to it.

Mr. O'Brien: You tell me to go ahead, and at the same time you are saying I cannot go ahead.

The Master: Do you raise any issue with reference to the first item on here, labor, superintendents.

Mr. O'Brien: I have got to find out where he got it, and what items are in it. 20384

The Master: What do you say about it?

Mr. O'Brien: I am not going to state at this time what issues I raise with regard to any item here.

The Master: Then you will have to pass on to some other subject matter that maybe I will allow you to ask about.

Mr. O'Brien: Was your Honor's ruling confined here to this particular schedule?

The Master: The general principle of it applies to every schedule now. I told you this morning that I was allowing questions prepared by Mr. Sangster because they indicated your point. I 20385
sustained objections to a series of questions this morning, and then after you had asked three or four questions and I got your point and saw that you made an issue about something, I let you go back and ask them. Now, if Mr. Sangster has given you anywhere a statement that one or more items in this schedule are wrong, and has suggested to you the questions which will bring out the error or the claim, I will let you ask them. If Mr. Sangster has told you that as he figures it the amount of oil used was 1,616,000 instead of

1,816,000, and that that was due an error in computation of 200,000 somewhere, I will let you point it out after proper cross-examination.

Mr. O'Brien: One answer to that is this: The defendants have not had twenty men working on these books for nine or ten months.

The Master: Mr. Sangster impresses me as a very capable man, and he has given you voluminous notes.

Mr. O'Brien: Mr. Sangster is not on the stand.

Mr. Ransom: These defendants have had
20387 more than twenty men—

The Master: Don't get into a discussion. If the city of New York has not given the Corporation Counsel or District Attorney sufficient facilities and funds to present their view of it, I can't help it. I hope that between the District Attorney and the Public Service Commission that the rights of the consumer will be presented and protected.

Mr. O'Brien: Your Honor, isn't this of sufficient importance to warrant you in deferring final action until to-morrow, when Mr. Chambers is present?

20388 The Master: No, I have decided. Nothing that Mr. Chambers can possibly say will change my views. I have thought of it for days. I thought of it before I made the ruling against Mr. Chambers last week. I thought of it before I made the ruling this morning. I have tried in every way to give you and other counsel every opportunity to present your issue, to present your claims, but I have reached the point where it has got to stop. Unless there is an issue about a figure I am not going to permit a mere fishing excursion, and what seems to me to be a pure waste of time

If there is an issue about an item, and you will tell me what the issue is, I will let you develop it from cross-examination, although you can do it just as well upon your direct. Let us go ahead.

Mr. O'Brien: You are assuming all the time here that there is going to be evidence put in by the defendants.

The Master: Why, I should hope there would be.

Mr. Clark: The difficulty from the point of view of the Public Service Commission as to this ruling is, that in many cases it is absolutely 20390
necessary for us to know the exact basis on which Mr. Teele has made up some of the figures here, in order to prepare tables to meet them.

The Master: That is all right. I am going to help you do that, if I know what you want to get at. If Mr. O'Brien will state to me, "Now my expert tells me that he cannot figure this out because of a certain situation," I am going to let him get it on the record and get the information. I am going to help you in every way I can, but I have got to save some time here. I have got to know first that there is such a situation. 20391

Mr. O'Brien: Your Honor, I don't think you have a right to say that we have got to come in here and tell you what we are going to set up in this case as a defense.

The Master: Mr. O'Brien, what is the use of arguing it with me. I have tried to make myself clear. If you don't want to ask any further questions say so, and I will close the examination.

Mr. O'Brien: In regard to a great many of these items, as you will note, I passed along,

20392 Arthur W. Teele, Cross.

where there were some items of minor importance. In regard to the Gas Production Account here there are a great many matters that are not taken care of on the direct, and your Honor should have the information.

The Master: I will get the information. If by any possibility the District Attorney and the other defendants do not put any proof into this case, knowing as I do that certain men have been employed by the various defendants to check up these accounts, I will call them myself, in the
20393 interest of justice. I will put Mr. Sangster on the stand and ask him what he found out, very quickly. This case is going by default. I will protect the consumers all right if I have to call the witnesses myself.

Mr. O'Brien: I was about to say to your Honor that you have made a ruling now, and there are so many items here that would be involved, that I think before proceeding any futher or attempting to examine this witness, that I should have an opportunity to talk with Mr. Chambers.

The Master: Will you make me this promise,
20394 that if I adjourn court now, that we will convene at 9:30 sharp to-morrow morning, and there will not be any argument, because if there is to be any argument we might as well sit here now and hear it.

Mr. O'Brien: I want to get the full meaning of your ruling here.

The Master: Do you understand my ruling, Major Clark?

Mr. Clark: I understand what you have stated, but I must except to the extent of it.

The Master: Mr. O'Brien doesn't seem to understand it. Do you, Major Clark?

Mr. Clark: I understand you will not allow any questions to be asked about items unless we state the reasons for the question.

The Master: Yes.

Mr. O'Brien: Yes, but I understand that unless we can point out that there is an error.

The Master: Unless you contend that that figure is wrong. Major Clark says unless you contend that your experts cannot check that figure and you have got to cross-examine for the purpose 20396
of getting information upon which they can figure. I have got to have something that will justify cross-examination as to every item.

Mr. O'Brien: . There are very, very many questions that must be asked of a witness before we can determine whether we care to go into an inquiry as to them. There are some matters that we perhaps would not deem of sufficient importance to controvert, that might not affect the case. Those things will develop during cross-examination.

Adjourned to Friday, November 21, 1919, at 9:30 20397
A. M.

Last Complainant's Exhibit—375.
Last Defendants' Exhibit—AA-18.

CONSOLIDATED GAS COMPANY OF NEW YORK vs. NEWTON, ETC., *et al.* 20401

Before ABRAHAM S. GILBERT, Special Master.

NEW YORK, November 21, 1919.

Met pursuant to adjournment.

Present: MR. RANSOM, MR. VILAS and MR. GOETZ, of Counsel for Complainant.
MR. CHAMBERS, of Counsel for defendant Newton.
MR. HAYWARD, MR. CLARK and MR. NEUMANN, of Counsel for Public Service Commission. 20402
MR. O'BRIEN, of Counsel for defendant Swann.

ARTHUR W. TEELE, resumed the stand.

Mr. O'Brien: Judge Ransom, may I have the vouchers that were here last night?

Mr. Ransom: The complainant produces the coal and oil vouchers for 1918.

20403

Mr. O'Brien: The oil vouchers, your Honor, were marked in evidence last night, for 1918.

The Master: Yes.

Mr. Ransom: They are only the 1918 vouchers.

Mr. O'Brien: I want to cover that. With a view to showing the method adopted by the witness of verifying the accounts in the books, I offer these—in other words, without accepting the figures.

The Master: Yes, you can have marked, Mr. O'Brien, any of the underlying data.

Mr. O'Brien: The oil invoices for the year 1919.

The Master: Let me have them and I will mark them. There are two bundles here.

Mr. O'Brien: Two stations.

The Master: What are you offering, the coal or oil?

Mr. O'Brien: Oil.

Marked Defendants' Exhibit AA-19. (One bundle.)

Mr. Ransom: Including the certificates and
20405 receipts attached to the vouchers.

The Master: It is the bundle as delivered by Mr. O'Brien.

Mr. O'Brien: Yes, it includes the statements made on the attached sheet in each instance, of some employee of the company or somebody, as to the amount of oil he measured.

Mr. Ransom: And the certificates of the Produce Exchange.

The Master: It is the invoice with the usual endorsements and certificates attached.

CROSS-EXAMINATION CONTINUED BY MR. O'BRIEN:

20406 Q. Mr. Teele, I will ask you now if you made any tabulation of the records of oil received, made at the delivery station and attached to the back of each invoice?

The Master: The objection is sustained upon the ground stated yesterday. Counsel has not indicated the usefulness or purpose of this question.

Mr. O'Brien: At this time, your Honor, I will call your attention to various invoices here and the discrepancies between the receipts of the employees, some employee of the company, at-

tached, and the amount of oil recorded on the invoices. As an illustration of that I refer to voucher 3901, where there is a variation of some four million gallons—

The Master: I do not think you have got my point. Mr. Teele testified that according to the books of the company, the records of the company, as he has described them and as they have been kept, there was used during the year 1918 a certain quantity of oil. That is his testimony. That is what the books show. Is it your contention that the books do not show that? 20408

Mr. O'Brien: Well, my contention is that the vouchers do not show it.

The Master: No, he has not testified about—

Mr. Chambers: Oh, yes, he has.

Mr. O'Brien: My contention is that he has checked these up, and my contention is that the deliveries are altogether different.

The Master: Then your contention is that the books are not correct?

Mr. O'Brien: My contention as to this particular item of my examination is that apparently the witness and the general books of account have accepted measurements of oil as shown on the invoices of the oil companies, as against the statement made of the measurement of oil by some of their employees. 20409

The Master: I will let you bring that out. You can do that in a question. Ask him if that is so.

Mr. Chambers: He has to lead up to it.

The Master: You do not have to lead up to that at all.

By the Master:

Q. Mr. Teele, did you hear the statement made by Mr. O'Brien?

A. I did.

Q. Do you understand the claim made?

A. I do.

Q. Is that the situation?

A. It is.

The Master: There you have it.

By Mr. O'Brien:

Q. Mr. Teele, will you say why you have rejected the measurements of oil made at the works in each
20311 case, at the time of delivery, and accepted invoices of the Standard Oil Company?

Mr. Ransom: Objected to. There is no evidence that he did anything of the sort. There is no evidence of that kind at all.

The Master: That is what I understood.

Mr. Ransom: There was an agreement on a method of measurement.

Mr. Chambers: You see, when you get the short cut method they dispute it.

The Master: No, they will not dispute it at all. Mr. Teele, I want you to tell me, in view of the statement made by counsel, just how the record
20412 of oil is kept by the company and where it differs from a record which might be kept on the basis of the oil vouchers themselves.

The Witness: Under the oil contracts the Consolidated Gas Company are required to accept the certificate of the Produce Exchange Inspector who measures the oil at the point of shipment. Those certificates are attached to every invoice—on the gallonage. The gallonage on the inspector's certificate agrees with the gallonage on the invoice. The company has paid for that gallonage. The gallonage as computed at the stations is com-

puted in various ways; it is computed under different conditions from the oil measured at the point of shipment, at a different time and under different conditions and under different temperatures.

Mr. Chambers: You see, he does not know that —none of that.

The Master: But that is his understanding.

Mr. Chambers: I mean he has no knowledge of that any more than the Master has.

Mr. Ransom: He probably got more gallons than the other basis called for. Do the defend- 20414
ants complain of that?

The Master: If Judge Ransom will be quiet a minute I think I will understand the situation.

By the Master:

Q. The fact is, Mr. Teele, as I understand it, that the company measures its oil independent of the vouchers?

A. It does.

Q. For reasons that have been given to you?

A. Yes.

Q. As to which you have no personal knowledge?

A. Right.

Q. That is the explanation you have been given? 20415

A. Yes.

Q. As to the reason for measuring the oil that way?

A. And it has been testified to by Mr. Woods, I believe.

Q. Yes. Well, you are under cross-examination. It is quite proper; the fact is that in some instances, calculated in a certain way, it might appear that there was less oil or more oil if you take the vouchers themselves?

A. Yes.

Q. Is that correct?

A. That is right.

Q. As to that you only know that the books have been kept in the way they have been kept for the reason that has been given to you, and that you are giving now?

A. That is right.

The Master: If there is any argument on that I will hear it later. I understand it now.

By Mr. O'Brien:

Q. As a matter of fact, for verification of the in-
20417 voices of the Standard Oil Company did you go beyond the certificate of Charles Martin & Company and the statement made in the invoice, to check it up?

A. I did not, and I could not.

The Master: Was it always Charles Martin & Company?

The Witness: There is nothing to gain by that.

Mr. O'Brien: I move to strike that out.

The Master: There is no use making motions to strike out, I will not strike out anything. Anything that goes in, goes in, and if it is improper I will disregard it.

By the Master:

20418 Q. You always took it on the Produce Exchange certificate?

A. Yes.

Q. Whether it was Martin & Company's firm or somebody else?

A. Yes, the Produce Exchange inspector's certificate.

Q. The certificate of somebody, whose name was attached, and who appears to be inspector certified or authorized?

A. Yes.

Mr. O'Brien: It is one Charles Martin & Company.

The Master: I understand it perfectly. Let us go to something else.

By Mr. O'Brien:

Q. In verification of the oil delivered to the company, why did you not use the measurements taken at the Delivery Station, at the works, by some employee of the company?

Mr. Ransom: Objected to.

The Master: Let me understand that. I do not get your point there. 20420

Mr. Ransom: It would have cost this company more.

The Master: When we were over to the Astoria Works that day—

Mr. O'Brien: This is the 99th Street station, your Honor.

The Master: I was going to ask you if there was any difference. The method of delivering oil, as I saw it, was by pumping direct from the barge into the tank. There was no measuring at that time except as the tank was measured before the oil came in and, as we were told, measured after it came in. 20421

Mr. O'Brien: Yes.

The Master: Is there anything different from that at 99th Street and 21st Street?

Mr. Chambers: Yes, sir. It has been testified there was a difference between the measurement taken over at Bayonne and the works. They tried to say that was a difference in temperature.

The Master: All that I am going to take on this proposition is an inquiry of this witness, in view of the statement made of the variation, as to how he did it. He says, as I understand it—and I

wish you would listen to me, Mr. Teele—that the books are kept on the basis of measurements made in the tank.

The Witness: The books are not kept on the basis of measurements made in the tank. The inventories are based upon the measurements taken in the tank, because it is the only way of getting the inventory. The oil received is on the basis of the invoices and the inspectors' certificates, which it must be under their contracts. They have to pay for that gallonage.

20423 The Master: I see. Let me put the figures down as you go along.

By the Master:

Q. Let us assume there are a million gallons of oil in the tank at the beginning of the year.

A. Yes.

Q. That is actual measurement, is it not?

A. That is the measurement as taken in the tank.

Q. Yes. During the year that the certificates of the oil company show there were two million gallons delivered. That is by certificate?

A. Right.

Q. And not measured by the company?

20424 A. Right.

Q. That would indicate that there were three million altogether during the year?

A. To be accounted for.

Q. To be accounted for?

A. Yes, sir.

Q. At the end of the year you measure it and find that there is one million left, so that you assume two million have been used; is that right?

A. That is right.

Q. That may or may not be right, depending upon whether the figure of merchandise received is accurate?

A. Well, whatever it is. I have charged the cost of production of gas with the difference between what they had on hand and what they had received, less what they had on hand at the end, unless it has been accounted for in some other way.

Q. And the books take the amount of the receipt of oil from the vouchers, and that is what you took?

A. Yes.

By Mr. O'Brien:

Q. Did you ever for the purpose of verification, Mr. Teele, make a total of the amounts of oil reported to be received by the employees of the company at the 20426
several stations during the year?

The Master: I do not understand the question, but I will let the witness answer it.

Mr. Ransom: I object to the question.

Mr. O'Brien: Your Honor, does not this go directly to the wisdom of the contract? Does it not go certainly to the reliability—

The Master: But I do not understand the question. Do not argue, because I cannot unless I understand it.

Mr. O'Brien: He has added up the sum total of the employees, measurements on the back of these invoices, to see just how much of a variation 20427
there was.

The Master: I see what you mean.

Mr. Ransom: If the defendants will state how many hundred thousand dollars more the company ought to pay the Standard Oil Company, the company will take it under consideration.

The Master: That is not an argument at all.

Mr. Chambers: It is less.

The Master: I am going to let the witness state whether he tabulated the amount of oil received according to the certificates of the clerks.

The Witness: I tabulated both ways.

By the Master:

Q. You did tabulate them?

A. Both ways. I have a statement here of the oil invoices charged as against each station, on which I have shown the number of the invoice, the total of it in dollars, the amount of gallons reported as received at the station, the number of gallons called for on the invoice, the aggregation of it, and the date received. So I know what the difference is between the reported gallonage and the gallonage paid for under the invoices.

20429 Q. How much is it? It is perfectly easy to bring out a point if you have it, instead of fussing around for days.

A. The total gallons invoice to the company is 28,103,830.

Q. At all stations?

A. No, this is just 21st Street station only. The total gallons received at the station according to the received invoices is 28,201,902.

Q. A difference of how much?

A. Roughly, a difference of about 100,000 gallons.

Q. Against or in favor of the company?

A. In favor of the company.

Q. In favor of the company?

20430 A. In favor of the company; the receipt invoices call for 100,000 more than the invoices by the vendors.

Q. In figuring up the amount of oil used, did you take the lower figure or the higher figure?

A. I took the gallons which the company paid for.

Mr. Chambers: Which station was that?

The Witness: 21st Street station.

Q. Give me the 99th Street station too, if you have it?

A. The total gallons invoiced to 99th Street station is 5,195,385; the total gallons received according to the receipt invoices is 5,243,769.

Q. Which figure did you take?

A. I took the invoiced gallons for which the company paid.

Q. Which was less than the amount received?

A. Which is less than the amount reported to be received.

Q. Reported according to the clerks of the gas company?

A. Yes.

The Master: Next question.

By Mr. O'Brien:

Q. Did you compare the result that you obtained 20432
by subtracting the amount on hand at the end of the year, as shown by some inventory, from the total of the amount on hand at the beginning of the year, plus the amount delivered?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Q. (Continuing.) With the results—with the statements as to oil used, found in the manufacturing book?

The Master: The objection is sustained. The Master is of opinion that we have had enough testimony on the question of oil. I think we have had enough of it. 20433

Mr. O'Brien: The point is your Honor—

The Master: You gentlemen are confusing cross-examination with your direct-examination, unless I am wrong in my view.

Mr. O'Brien: I was told last night not to argue the question any futher.

The Master: That is right, don't.

Mr. O'Brien: Therefore I am not saying a whole lot of things that I want to say.

The Master: Say it out in the hall during recess.

Mr. O'Brien: In regard to this particular situation now before your Honor, the point is that they disregard, for reasons that they have, whatever they may be, the measurements made as to oil delivered by their own employees, and accept the invoices of the company; yet as to the manufacturing book the record is taken from these very men who make these measurements and put in the manufacturing book.

The Witness: How else would you get it?

The Master: Statement made by Mr. O'Brien
20435 is correct, but you say that is the only way to do it?

The Witness: That is the only way they can do it.

Q. Have you ever made a tabulation, Mr. Teele, of the records of oil used, shown in the gas makers reports from day to day, as recorded in the manufacturing book?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Your Honor will recall that is another way of measuring oil.

The Master: You promised me you would
20436 not argue it.

Mr. O'Brien: Exception. I will offer in evidence the coal vouchers for the 99th Street station. Your Honor is not going to permit me to ask the witness any questions unless I state that I can point out errors in the calculation?

The Master: Just a minute. I have received and marked in evidence the coal vouchers for the 99th Street station.

Papers received in evidence and marked Defendants' Exhibit AA-20.

Mr. O'Brien: Your Honor is accepting them

as invoices that the witness says he made his tabulations from?

The Master: That is all.

Mr. O'Brien: Not to bind us by the figures shown therein?

The Master: That is right. Now, do you want to offer any other coal vouchers?

Mr. O'Brien: I offer in evidence the coal vouchers for 1919, for the 99th Street station.

The Master: I am receiving in evidence the coal vouchers for 1919 for the 99th Street station.

Papers received in evidence and marked Defendants' Exhibit AA21. 20438

Mr. O'Brien: I offer in evidence the coal vouchers for the 21st Street station for 1918.

Papers received in evidence and marked Defendants' Exhibit AA22.

Mr. O'Brien: I offer in evidence coal vouchers for the 21st Street station for 1919.

Papers received in evidence and marked Defendants' Exhibit AA23.

Mr. O'Brien: These are received with the same limitations?

The Master: All with the same limitations.

Mr. Ransom: Just what is that limitation? 20439

The Master: They are being marked practically to identify the vouchers, that is all.

Mr. Ransom: The defendants by putting them in do not bind themselves by them?

The Master: No.

Mr. Ransom: The fact that they are offered by the defendants rather than by the complainant does not alter their probative value that they would otherwise have?

The Master: They haven't any probative value except that they are the vouchers upon which entries were made.

Mr. Ransom: Under the authorities they have

The Master: They are part of the accounts and records and papers of the company.

Mr. Ransom: The Supreme Court has held very definitely that they have probative value.

The Master: Perhaps I was not quite accurate. What I meant is that Mr. O'Brien is not binding himself by the accuracy of any statements contained in them.

Mr. Ransom: That is what I understood by his offering them.

20443 The Master: Go on and ask a question, and you will draw from me a ruling if you do not understand my position.

Q. Mr. Teele, did you examine the coal contracts, or did your men, in connection with the tabulations made on Exhibit 205, as to coal delivered and used?

The Master: One moment. What is the purpose of the question?

Mr. O'Brien: The purpose of this examination, your Honor, is to find out how far the examination of the witness went, or his employees, into the question of verifying the figures he found on the books as to coal used in gas production by

20442 the complainant company in the year 1919; to find out what tests he made at the 99th Street station, where he said he made the test on these matters, pursuant to your Honor's direction; how far those tests went, whether they included all of the records and original statements as to coal deliveries that are made at the stations where coal is received, and particularly at that station where he said he made the tests.

The Master: I will not allow the question.

Mr. O'Brien: The method adopted by his men

in making this examination; the extent to which they depended upon oral explanations made by some officers of the company, or the extent to which they accepted statements made by officers or engineers or other employees as to the method of weighing and measuring coal delivered; the methods of making tabulations, and the extent to which other extraneous records were relied upon by the witness in his verification of the accounts that he found on the books covering the use of coal; the extent to which he depended upon the manufacturing book of the two stations, 99th 20444
Street and 21st Street, in determining that the records in the general books of account were reliable; how far he verified the manufacturing reports with the actual returns made from the boiler house and generator house as to coal used.

The Master: I won't allow the question, Mr. O'Brien, unless you can point out to me, as you did as to the oil situation, some particular point as to which inquiry may be useful.

Mr. O'Brien: Your Honor I had intended to pursue the examination of the witness as to how many items in his various schedules that will be along the line that I have just indicated; and so 20445
that you may know what is in my mind—and I believe that the Attorney General, and Colonel Hayward's representative concur with me in it, and Mr. Neumann also, I will state that we respectfully dissent from your Honor's ruling in regard to our pointing out errors before we are permitted to cross-examine the witness.

The Master: Now, don't put words into my mouth. I told you that I would not permit you to ask this question unless you pointed out to me in the same manner as you did to the oil situation,

the purpose of the inquiry and the point to be developed, so that I may determine whether it is a useful inquiry.

Mr. O'Brien: Well, the purpose to be developed is the inadequacy of the examination made by the witness to state that these records are reliable.

The Master: I do not think that is a useful inquiry, and I will stand by my ruling.

Mr. O'Brien: Exception. I will state further than that, that the other purposes I have already
20447 outlined are purposes that we have in mind.

The Master: Do you contend that the figures are wrong in any respect, just as you did with reference to the oil situation.

Mr. O'Brien: Your Honor, the measurements differ, some of these invoices haven't got any vouchers on them at all—I mean any statements on them at all to indicate what the measurments were; and the contentions that we are going to make to various items in the schedule will not be developed on the cross-examination to the point that we will state where we differ from the witness. Now, in that connection, so that you may
20448 have full knowledge, and so that we will not be in the position of concealing something from your Honor that you ought to know when you make a very serious ruling, I will state that since the trial of this case the examination of the books has been going on by representatives of the defendants, and the general books of account are each day brought down to court, so that you may assume that on every day the case has been on trial, all the general books of account are in court.

Mr. Ransom: Oh, no, that is not at all the case.

Mr. O'Brien: Judge, I will give you a chance to correct me if I am slightly in error.

Mr. Ransom: You don't want to state what is not the case.

Mr. O'Brien: I certainly do not, and I will be glad to be corrected when I have finished.

The Master: I know that you have insisted on these books being here during your cross-examination.

Mr. O'Brien: I am telling you about a practical situation that exists. The general books of account are in court, and some days, like the last 20450
two or three days, I was asked whether I would need certain books here, and I told Mr. Frank he could convey the information to Mr. Ransom that I would not require those books, so they would not be delayed in their work. It does not need much debate to show your Honor that an examination by accountants of these various books is interrupted by the presence of the books in court. This examination is going on concurrently with the trial, and the examination of the witness brings out salient points as to where the work being done by accountants may be best directed. I say this to you so you will under- 20451
stand that the work being done by the various representatives of the defendants cannot be said to be complete. I am saying that to you reserving all our rights on the proposition that you have no power to say that before we quiz a witness we are to tell you whether we controvert a particular figure. We deem the scope of cross-examination properly to embrace various matters, the determining of the methods that have been pursued, the reliability of the witness, the relia-

20452 Arthur W. Teele, Cross.

bility of his methods, and the general conclusion as to whether his deductions made from the examination and tests that he has made are correct.

The Master: Don't let us have any more argument about it. My ruling will stand as to that question.

Mr. O'Brien: Of course, your Honor will understand as I proceed with my examination that I am not acquiescing in your ruling that we must point out—

The Master: I understand perfectly. You
20453 never acquiesce when you have made your objection and taken your exception.

Q. Mr. Teele, referring to Schedule 9—take the 99th Street Station. Does this item of $23,918.66 for boiler house coal include labor?

A. To what item are you referring?

Q. On page 11, to gas production in the 99th Street Station?

The Master: I shall ask counsel to state what he expects to develop by that question.

Mr. O'Brien: Your Honor will recall that when Mr. Chambers was on the question of generator fuel, quizzing the witness as to Exhibits 364
20454 and 365, where the figure was put down, a total figure covering all of the stations of the company, the examination developed that the figure given for coal included labor.

Mr. Ransom: As required by the uniform system of accounts.

The Master: Don't interrupt.

Mr. O'Brien: Oh, the uniform system of accounts, why don't you mark it all over yourself?

Mr. Ransom: The company has to keep its account that way.

The Master: There you go again. Go on Mr. O'Brien.

Mr. O'Brien: He has got something in his mind that is not in yours or mine, your Honor. He is anticipating something that won't develop at all.

The Master: Well you started to say that Mr. Chambers—

Mr. O'Brien: I have lost the sentence.

The Master: Well, I haven't. You started to say that when Mr. Chambers was asking the witness about generator fuel—

20456

Mr. O'Brien (interrupting) (continuing): —as set forth in a total figure, not on the exhibit now before us, 205, but on a general exhibit—

The Master: 364.

Mr. O'Brien: 364, that there was an element of labor in a certain $702,000 as there set down, and that element of labor we brought out when he was asked to separate that $702,000 into the labor and into the coal of the two stations. He then pointed out that $134,000 set down for 99th Street for generator coal included some $12,000 of labor. And he was asked where he got that, and he said he got it in the journal.

20457

The Master: Yes.

Mr. O'Brien: And in the Journal it was indicated that it came from statistical data.

The Master: Yes.

Mr. O'Brien: Now I am asking him whether boiler house fuel contains a similar figure of labor, and I will add to the question, "And was the figure for labor, if it is contained in this $23,918.66 for coal at 99th Street Station, was that found in the same place and in the same way?"

The Master: What is your contention about it?

Mr. O'Brien: The contention about it is, your Honor, that this goes to their system of bookkeeping, to the reliability of it. The contention is that they set forth—

The Master: Then we have got enough of it as to the generator fuel. We do not have to show that again under the boiler fuel.

Mr. O'Brien: Well, I don't know that it was brought out. The development of yesterday's examination sheds further light on it, but whether it was brought out, your Honor, that there isn't

20459 any account—

The Master (interrupting): Your experts ought to know whether it is or not, and if it is or is not, you ought to be able to ask the question directly.

Mr. O'Brien: Well, I want to ask this witness after he states the facts.

The Master: The minute I forced you to a position on the oil contracts of pointing out what was in your mind, we had it, on the record in five minutes, and I won't permit this question unless I know what I am going to get by it.

Mr. O'Brien: Your Honor, this question goes

20460 to the question of the bookkeeping system, and I want to find out how far he made his checks.

The Master: I won't allow the question unless I am given some information similar to the information given me as to the oil.

Mr. O'Brien: The examination that was made yesterday disclosed a great many very curious things about the underlying data from which the books were made up.

The Master: That is a matter for argument later on.

Mr. O'Brien: And whether you can draw your conclusions at the close of the case as to whether, in the face of those conditions, the accounts could be said to be reliable—

The Master: I shall rule that I have had enough cross-examination for that purpose.

Mr. O'Brien: I take an exception to your Honor's rulings, and I will state in regard to this Schedule 9, that I desire to proceed to ask further questions more or less similar to the ones that I have generally outlined, that is as to the methods adopted of verifying the accounts as to labor, 20462
whether in regard to the stations, various stations, that he got beyond the pay rolls that came to the main office with an approval of the superintendent of the station; whether he had adopted any further tests as to pay rolls, than the cost of the pay roll for a given month in 1918.

The Master: I don't want to interrupt you, but I think you better ask your questions, because I won't give you a general ruling on it as to a whole schedule. You won't annoy me by asking questions that I will rule out.

Mr. O'Brien: I am glad to hear that. It is interesting, at least, to hear you say that, because 20463
last night I made a statement that you did not understand when I said I did not quite understand the scope of your Honor's ruling and I felt that there was a course to be pursued in preserving our rights of further questioning, leaving it to you to make your ruling.

The Master: Go on and ask your questions.

Q. Mr. Teele, you outlined yesterday the tests that you made of pay rolls and time books and time tickets at the Ninety-Ninth Street Station for the month of

May , 1918. I will ask you if you made any other tests similar to those as to the other months of the year at 99th Street, and as to any parts of the year 1918 at any of the other stations?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. In connection with the coke item at 99th Street, on page 11 of this exhibit, Mr. Teele, did you accept the vouchers of the Astoria Company with regard to the quantity of coal as a reliable statement of the
20465 amount?

The Master: Objection sustained. I do not see the usefulness of the question. I am prepared to modify my ruling if counsel can point out in what respect it may be useful.

Mr. O'Brien: It goes to the question of the reliability of this record. We are now dealing with intercorporate relations, your Honor, and this matter of the purchase of coke from an affiliated company should be throughly analyzed to determine just how far the witness went to verify that amount.

The Master: I will stand on my ruling.

20466 Mr. O'Brien: Exception.

Q. As to the generator fuel in the 21st Street Station, under the heading "Gas Production," did you depend upon the statements made in the gas production statistics as to labor in handling for your figures in making your verification of the record in the Operating Ledger?

The Master: Objection sustained.

Mr. O'Brien: Exception. Your Honor, I point out with respect to that that it would appear that the only record, the only permanent record of

that particular item, in connection with generator coal and boiler house coal, would seem to be this penciled statement called "Gas Production Statictics"; that there is no other permanent record.

The Master: What do you base that on?

Mr. O'Brien: On the testimony of the witness.

The Master: Well, then, the testimony is in.

Mr. O'Brien: Well it was not, as I said—

The Master: Objection sustained.

Mr. O'Brien: Exception. As I said a minute ago, it was not clearly brought out by Mr. Chambers' examination. 20468

The Master: Clear enough. It is clear enough. I deliberately asked the question I did because it was my recollection of it that your statement was made upon evidence already in the record.

Mr. O'Brien: Well, you will recall when it was touched upon by Mr. Chambers the question related only to the item of a certain $12,000 in regard to—

The Master: Yes, but it is illustrative of the whole thing. Next question.

Mr. O'Brien: Well, if your Honor understands that to be—the record shows it, that is what I want. 20469

Q. Mr. Teele when the Master directed you to make your tests during the course of your direct examination of certain underlying data, did you at that time make any tests of the invoices and receipts of the employees at the works in connection with merchandise or material there received?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: In this connection, your Honor,

20470 Arthur W. Teele, Cross.

I will say there is nothing on the record in regard to that. You told him at that time to do something more than get the time books. He was to get books as to merchandise received.

The Master: I am sustaining the objection because he has told us very fully what he has done. I assume that he has done nothing else.

Mr. O'Brien: Well, I have been over his statement made after he made these tests, and I do not think you will find anything there except the statement as to what he did with these time books at the

20471 99th Street Station.

The Master: Then he did not do anything else.

Mr. O'Brien: Well, that is not all. You cannot conclude that absolutely from the record.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Mr. Teele, have you in connection with your work made any general separation, in any summaries not in evidence, of the whole cost of labor and the whole cost of materials? In other words, have you segregated all the labor in gas production in any summary so that you could give us that figure?

A. No, I have not.

20472 Q. Have you gone into an examination of the tickets or cards that are turned in as to labor from the works stations to the main office to determine whether or not the allocations of those items of expense were correctly stated in the numbers used on those cards?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Did you use in making up schedule 9 annual reports made to the Public Service Commission of the complainant company?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Did you resort to those reports for the separation of general items into subsidiary items in this schedule?

The Master: Objection sustained.

Q. Did you find in any records of the company the distribution of these various items of expense shown on Schedule 9 with the numbers referring to certain provisions in the uniform system of accounts set up therein?

The Master: Objection sustained.

Mr. O'Brien: Exception. 20474

Q. Did you make them yourself?

The Master: Objection sustained.

Q. Did you use your judgment in making your determination as to whether the items of expense in each case, to illustrate, the item of superintendence in 14th Street, gas production expenses, should be placed under 601-A or whether the amount in money $1,576.04 included nothing except what should go under that account under the uniform system of accounts.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Turning to page 12 of this schedule—

Mr. O'Brien: Your Honor, I may state before passing to this next page that I have a number of questions along practically the same line as indicated yesterday afternoon and this morning, to ask, and which I refrain from putting because of your Honor's ruling already indicated. 20475

Q. Turning to the reports on Schedule 9—

Mr. Goetz: That is a very indefinite reservation.

The Master: Don't you worry about it being indefinite.

20476 Arthur W. Teele, Cross.

Mr. Goetz: "The same as yesterday." There were twenty-four hours in yesterday.

Q. Did you examine the contract involved in the several items in the repairs at works and station structures on page 600 of the ledger, to determine whether or not the repairs in question were such as should be classed under operating expense, or should be placed in the capital account?

The Master: Objection sustained.

Mr. O'Brien: Exception. I am trying to make it general, your Honor. I can make it specific

20477 The Master: I am not complaining about its being general in form. I am sustaining it upon—

Mr. O'Brien: It is quite obvious that I am making an effort to avoid multiplying questions.

The Master: That is all right. I am going to protect you by a ruling which will state precisely that I am not allowing it because I do not see the usefulness of the question.

Q. How far did you go, Mr. Teele, with regard to the repairs at works and stations structure set forth on page 12 of Exhibit 205, to determine whether or not the accountants of the company had properly placed in operating expenses the several ex-

20478 penses that are set forth in figures?

Mr. Goetz: Objected to on the ground it is indefinite and immaterial.

The Master: Same ruling. The question has not been allowed by the Master for the reasons heretofore stated, that he does not see the usefulness of the question.

Mr. Goetz: The complainant objects on the grounds the questions are purposeless.

The Master: The Master refuses to pass on counsel's objection.

Q. Can you state, Mr. Teele, why three certain amounts on page 599, of $148.26, $144.08 and $143.64, to the Donner House Wrecking Company, were charged up to Operating Expenses?

Mr. Ransom: Objected to.

The Master: The same ruling.

Mr. O'Brien: Exception.

The Master: The question would indicate a pure fishing excursion.

Mr. O'Brien: I have taken a sample item, your Honor.

The Master: And I have used the sample 20480
item for the statement I made.

Mr. O'Brien: Of course, you are at liberty to make statements, and it is not for me to controvert them at this time.

The Master: If it is not a pure fishing excursion, tell me what is in your mind. What do you desire to show by that question?

Mr. O'Brien: Taking that as a sample question, I desire to show how far this witness went into the allocation of repair items that are in this book.

The Master: Do you say that is not a proper repair item, and if so why? 20481

Mr. O'Brien: I do not say anything, your Honor.

The Master: Then the question is not allowed.

Mr. O'Brien: The building of structures of a permanent character would not go into operating expenses; I would say on the other hand that the obliterating of a structure might or might not be an operating expense.

The Master: Precisely. I can see at once from the item in question that if it were the de-

struction of property which is discarded it would not go into this account. If it were part of a repair job as I am about to make, where in order to extend a room or fix a room I have to tear down some of the room to put it up again, it may properly be a repair job. If you say there is anything in your mind which by a question to the witness would show it is not where it ought to be, I will let you ask it.

Mr. O'Brien: Can your Honor not see the unfairness of the suggestion? Where at this time
20483 the witness, Teele, with 20 men working for 10 months, has been able to produce only a general summary of figures taken from the ledger, can you not see how the defendants, in the limited time during the course of this trial, would be unable to get into every item, to see whether it was correct or was not?

At any rate, that is apart from the main point which I have already stated, your Honor, that the burden of proof is upon the complainant and we are entitled to rest at the close of the complainant's case if he has not proven it, and we have the right to bring out the unreliability of
20484 his method and the inaccuracy of his conclusions, as stated by him on the witness stand.

The Master: The ruling stands.

Mr. O'Brien: Exception. I may say that there is not anything in the record which shows how far he went into the repair items in his method of allocation.

The Master: There is enough on the record to indicate that this witness, generally speaking, looked at what was done with reference to allocation, and in every instance he reached the same conclusion, and his conclusions mean nothing to

me on that score. The only instance in which he thought an item should not be included was as to contributions to the Red Cross or War Work or something of that sort, which I think should have been included. Next question.

Mr. O'Brien: There is a ray of hope now that your Honor—well, I will cut out the ray of hope. Assuming your Honor's ruling would be the same as to repairs works and station structures and gas storage expenses, I will pass over those pages, just stating that I would ask the same questions or similar questions to those I have 20486
already asked, and I would insist upon asking them, and note an exception.

Q. Mr. Teele, you have on Schedule 9 an item of expense of $6,868,103.16. Are there any details of this item anywhere in your report?

Mr. Ransom: Objected to.

The Master: Objection sustained. The matter of gas transferred has been sufficiently covered by the cross-examination of this witness by Mr. Chambers.

Mr. O'Brien: Your Honor, Mr. Chambers did not go into this matter.

The Master: What? 20487

Mr. O'Brien: Mr. Chambers did not go into this matter.

The Master: Did not go into the question of gas transferred?

Mr. O'Brien: No.

The Master: Have I lost my head altogether?

Mr. Ransom: It was gone into at great length on the preliminary and also—

Mr. O'Brien: Well, let us have the record now. There are a great many matters that I want to clear up on this subject. Get the record.

The Master: Have you some questions prepared by Mr. Sangster with reference to it?

Mr. O'Brien: I have a great many prepared by him, and also some prepared by myself. Your Honor, here is one of the most important branches of the case. Here is 60 per cent of the production expenses—

The Master: You do not have to argue that. As I said before, I am inclined to let you ask any questions that Mr. Sangster has deemed necessary, on the theory that my experience has been
20488 that he has usually pointed out something that he has taken issue with; and my only hesitation is that I think everything has been fully covered by Mr. Chambers.

Mr. Ransom: Fully.

The Master: Ask your next question. The objection to this question is sustained. I shall have to ask Mr. Edgerton to take his seat, because it interrupts the examination too much. Ask your questions now and I will rule in them.

Q. How many cubic feet of gas is embraced in the amount $6,868,103.16?

Mr. Ransom: Objected to as already covered.
20490 That is also shown on the exhibit.

The Master: That is the amount shown on Exhibit 364, is it not?

Mr. O'Brien: I am talking about Exhibit 205, your Honor.

The Master: Yes, but that amount is shown on Exhibit 364, is it not?

The Witness: It is. It all appears there.

Mr. O'Brien: Well, just at this moment—

The Master: Can one of you gentlemen find me the cross-examination by Mr. Chambers of this witness on the question of gas transferred? I will sustain this objection.

Mr. Chambers: I did not ask him any questions at all on transferred gas.

Mr. Ransom: That was gone into at very great length.

Mr. Chambers: I did not ask this witness one single question as to that.

Mr. Ransom: I have the testimony here of the preliminary cross. Your Honor is entirely correct in your recollection, it was gone into at great length, as to every detail.

The Master: Mr. Teele, this figure of six million and odd dollars corresponds with the total of the figures shown on Exhibit 364, does it not? 20492

The Witness: It does.

The Master: And the quantities shown on Exhibit 364 are the quantities about which Mr. O'Brien is now asking you?

The Witness: I assume they are the same.

The Master: Objection sustained to Mr. O'Brien's question.

Q. Mr. Teele, did you take in your amounts of gas transferred, for your amounts of gas transferred, the sum total as shown on the ledger for the months, or a total that was used in the readjustment figures at the end of the year? 20493

The Master: What is your contention with reference to this gas transferred, Mr. O'Brien? What do you hope to bring out by this witness?

Mr. O'Brien: Your Honor, I hope to bring out this: This has got to develop, the whole cost of making gas, particularly at Astoria, and I am coming to that directly. The question is how far this witness went to verify the invoices for gas received from the Astoria Light, Heat & Power Company, whether he has made an audit

of the books of that company to determine what are the actual costs or whether he took the vouchers. Now, that is one thing. But do not confine me to that; this leads out in various directions.

Mr. Ransom: Mr. Chambers covered all that.

Mr. O'Brien: Judge Ransom, won't you desist for a minute. I want to make some progress here. Mr. Chambers did not bring it out.

Mr. Ransom: The only way I can ever say anything in this case is by interrupting you.

20495 Mr. O'Brien: Your Honor, as I have stated to you, this item will bring out the cost of making gas at Astoria. One of the things I want to learn from the witness is how far he went into the examination of the books, records, reports and papers of the Astoria Light, Heat & Power Company to determine what was the actual cost of making gas at that place.

The Master: I will let you ask him that question. How far did you go into the books, records, vouchers and documents of the Astoria Company to determine whether the price charged by the Astoria Company to the Consolidated Company was correct?

20496 The Witness: We examined the accounts of the Astoria Company for 1918, we examined the vouchers, reports, pay rolls and all the entries made in the accounts of the Astoria Company for the year 1918, and based upon the accounts so examined and based upon the reports of cost submitted to the Consolidated Company monthly by the Astoria Company, I compiled those reports and then compared them with the income account of the Astoria Company, which we had examined, and I found that the Astoria Company

had charged the Consolidated Company the cost of making gas for the year 1918, as disclosed by their accounts.

Q. Have you prepared an analysis of the costs, Mr. Teele?

Mr. Ransom: Objected to.

The Master: No, I am going to take this. I do not know what you are objecting to it for.

A. I have in my report a summary of the statements made by the Astoria Company to the Consolidated Company, and compared it with the income account of the Astoria Company, by which I reach the 20498
conclusion that I have just stated.

By the Master:

Q. I see that in this Exhibit 364 the price charged for gas was .6221, which represented, according to your statement, .3847 as the basic cost of the gas, plus taxes, insurance, and so forth.

A. No, the division of that .6221, as shown in that note, only shows the division at a certain point in the cost ascertainment.

Q. It shows that the cost of the gas, excluding taxes, insurance, and administrative expense and return on property was .3847?

A. Right. 20499

Q. That would include all the material and labor that went into the making of that gas, is that right?

A. That is right.

Q. And that is the figure you found to be correct?

A. That is the figure I found to be correct, and I found to be correct this figure which is shown on the face of this statement.

Mr. O'Brien: I object to the question of the Master.

The Master: Why?

Mr. O'Brien: It calls for a conclusion of the witness.

The Master: I am simply identifying the figure that you have been asking him about.

Mr. O'Brien: You are asking him whether he found it to be correct, and that might mean anything, you know.

The Master: Listen a minute. You ask him whether he went into the accounts of the Astoria Company to verify the charge made by the Astoria to the Consolidated, did you not?

20501 Mr. O'Brien: Yes.

The Master: I wanted to identify the charge made. The charge made was .38 plus, together with some other items. I simply identified the charge about which you have been asking him—to make perfectly sure that the record was clear upon that point. Because you are binding yourself as to the accuracy of that statement now.

Mr. O'Brien: I am binding myself?

The Master: Oh, absolutely. Up to this point I have no proof that the cost was .38 plus.

Mr. O'Brien: I am not binding myself to anything, your Honor.

20502 The Master: Go ahead now.

Mr. O'Brien: He has taken something from the books, presumably, from his statement he has taken something from the books. The books are not in evidence, and the underlying data of those books are not in evidence.

The Master: No.

Mr. O'Brien: And that whole matter is unproved so far as this court is concerned.

The Master: Go ahead and ask your questions.

Q. Mr. Teele, when did you begin that examination?

The Master: Objection sustained. I am not going to let you cross-examine on a cross-examination.

Mr. O'Brien: He has made general statements as to getting up these figures.

The Master: Brought out by you on cross. You are bound by his answers. I won't let you examine him as to those answers.

Objection sustained. You take your chances when you go into some of these things.

Mr. O'Brien: I am not taking any chances, your Honor, this is not a haphazard matter, this 20504
case. It is a matter of legal proof.

The Master: I am not going to let you cross-examine on a cross-examination question.

Mr. O'Brien: I don't know how far your ruling is going to go.

The Master: You ought to know; I know.

Mr. O'Brien: I say I don't know whether you are going to rule out the next question, how far you intend to shut out examination into the witness's audit, if he made one, of the books of the Astoria Company.

The Master: Go ahead; ask your question.

Q. What books and records of the Astoria Com- 20505
pany, Mr. Teele, were produced to you for this examination?

A. I don't know that I can enumerate the books of account of the Astoria Company to you, because I did not personally make that examination. It was made by my instructions and by my staff. It was started by one of my partners and concluded by one of my senior assistants, so I am not familiar enough with the detail records of the Astoria Company to say to you at this time just what books of account were examined, to give you the names of them.

Q. What was the name of your partner who started it?

A. W. H. Stumpfel.

Q. By whom was it concluded?

A. I believe that he concluded the work as far as the work has gone.

Q. Is the work yet incomplete?

A. No, I believe the work is completed on it.

Q. Are you working on the 1919 costs now?

Mr. Ransom: Objected to.

The Master: Objection sustained.

20407 Q. Would you find in any single account in the general books—am I to understand, Mr. Teele, that you have not been into the books of the company?

The Master: Which company?

Mr. O'Brien: The Astoria Company.

The Master: Personally?

Mr. O'Brien: Yes.

The Witness: I have not personally.

Q. You are not able to state whether the price of this gas charged to the Consolidated Company is contained in a single account there?

A. Contained in a single account—I don't exactly understand your question. You say, "Is the price of

20408 the gas contained in a single account?"

Q. Do you know what elements enter into the price of gas as charged by the Astoria Company to the Consolidated?

A. Yes, I do know the elements.

Q. What are they?

A. The cost of coal, coking coal, fuel, coal gas fuel, water gas fuel, gas oil, iron mass, enriching oil, shavings, water, gas making labor, power house operation, sundry supplies and repairs.

The Master: Well, in addition to that you have taxes and insurance?

The Witness: Together with a proportionate part of the rentals paid by the Astoria Company, and general administration, and taxes.

The Master: Insurance?

The Witness: That includes insurance.

Q. What else?

A. It covers the cost of operations as I have just enumerated, the rentals on jointly used facilities used by the Astoria Company, a provision to cover the loss from replacements, taxes, and interest on investment. That makes up the total of the 62.21 shown on Exhibit 364. 20510

Q. You have the figures for these various items there as reported to you by your men?

A. Compiled by one of my assistants under my instructions.

Q. In making up your Exhibit 205, what total did you use for the cost of gas production?

The Master: Exhibit 205? There he took the vouchers presented by the Astoria Company to the Consolidated.

Mr. O'Brien: Oh, I did not understand that, your Honor.

The Master: Certainly.

Q. Has this examination been subsequent to the preparation of Exhibit 205, Mr. Teele? 20511

A. This examination of what?

Q. Of the Astoria books, has that been made subsequently to the introduction in court of Exhibit 205?

A. No, it was made prior.

The Master: Well, the figures appearing on Exhibit 205 include the invoices charged by the—

The Witness: They are taken from the invoices sent to the Consolidated Gas Company by the Astoria Company, and duly approved by the authorized official.

The Master: In answering Mr. O'Brien's question, as I understood it, you said you looked into the invoices and found they were correct.

The Witness: Yes.

Q. What figure did you use in your work for gas production costs at Astoria?

Mr. Ransom: Objected to.

A. I don't understand your question.

Q. Mr. Teele, what did you find in the books of the Astoria Company—what did your men find in the books of the Astoria Company to be the total cost
20513 of making gas, including taxes and rents and everything except return upon the investment?

The Master: Have your experts had the opportunity to examine the Astoria books?

Mr. O'Brien: They are working on some of them now, your Honor.

The Master: I am going to allow a few questions on this—

The Witness: They have had full access to them.

The Master: If your men have had an opportunity to examine the books, you ought to know something about it.

20514 The Witness: Will the stenographer please read the question?

The Master: I will tell you what I think you had better give us, instead of answering the question of Mr. O'Brien—on your Exhibit 364 you show an item, gas received, purchased for Astoria Light, Heat and Power Company, 9,000,000,000 cubic feet, costing $6,000,000, at a price of 62.21 cents?

The Witness: Yes.

The Master: Have you got the items making up that 62.21 cents, so much for coal, so much

for gas oil, so much for labor? I think that is the quickest way to get it on the record.

The Witness: I think I can give that to you, your Honor.

Mr. O'Brien: Before you give that, Mr. Teele, your Honor does not assume that we will be compelled to examine these books and come in here and ask the witness about something that has not been proven, to point out to you before we cross-examine, the errors or controversies, if any, that we find in these books?

The Master: I won't discuss that just now. 20516
Do you want this question answered?

Mr. O'Brien: I want him to give us the figures that he found on the books.

The Master: All right, if you don't want this question answered I will withdraw it. I am putting it because I thought it was in line with the question that you put.

Mr. O'Brien: It is practically what I asked him, in another form.

The Master: All right, let us have that answer, Mr. Teele.

The Witness: Operating expenses—you want this in cents per thousand cubic feet? 20517

The Master: No, I would like to have it in total amount, how much was spent for coal, how much was charged for oil and then taking the send-out of so many cubic feet it ought to equal 62.21 cents per thousand cubic feet.

The Witness: I don't think I can give it to you in just that way, because my statement is not made up in that way.

The Master: All right, then you can't give it to us, that's all.

The Witness: I have the items set out by

months, aggregated by months. It is not aggregated by elements. I can give you the total of the operating expense and the total of the rentals included, and the total of the provision for losses on renewals and replacements, the total of interest on investment.

The Master: I was interested in seeing how the 38 cents was made up.

The Witness: We have not made up a manufacturing statement of cost production for the Astoria Company on the same lines as this statement 364 is made up. It could be done, but I have not prepared a statement in such form.

20519

Mr. O'Brien: Perhaps I can simplify this.

Q. Will you say what the books show, according to your men, to be the return upon investment?

A. I don't understand your question.

Q. Then I will repeat the first question I gave you, Mr. Teele, to give us, as has been reported to you by your men, the costs of making gas at Astoria, the several costs, and the taxes, and the rents, all the elements of expense excepting the return on investment.

The Master: He hasn't got the cost of making gas.

20520

Mr. Ransom: Yes he has.

The Master: All right, let us have it.

The Witness: I can give it to you in total.

The Master: Answer Mr. O'Brien's question.

The Witness: The elements entering into the total—the operating expense in cents per thousand cubic feet, do you want, or in dollars?

Q. In dollars?

A. Operating Expense $3,709,128.52
Use of the 48-Inch and 60 Inch Main 61,730.00
Use of the 48-Inch Harlem Main 14,468.12
Use of the Astoria Tunnel 379,190.73

Use of the Ravenwood Tunnel	51,172.80
Provision for Loss on Renewals and Replacements	48,633.35
Taxes	596,084.07
Interest on Investment	1,201,853.98

The Master: Mr. O'Brien, unless you have objection to the question I shall ask Mr. Teele to give us the amount of the bill rendered by the Astoria Company to the Consolidated Gas Company for gas furnished during December, 1918, and the details of that bill, how the amount was arrived at. 20522

Mr. O'Brien: Of course, there is nothing on the invoice, you know, there is no detail in it.

The Master: No, but you asked him whether he had figures showing how the cost was arrived at. The witness stated that he did not have it for the year, but he has it for each month. Now, I say unless you have objection I will ask him to tell us what his men found, in checking that bill, in December, 1918, were the elements that went into it and the cost of the various elements. If you have any objection I won't ask it.

Mr. O'Brien: Well, perhaps you had better let it go now and let it come in in the order as I go along, if you will defer it for a minute. It may come out naturally in the order of proof. 20523

The Master: All right. Then the question is not asked. You go ahead with your questions.

Q. Mr. Teele, do you want to change the figure that you gave just before the recess, in answer to my last question?

A. I think I gave you the items making up the total cost.

Q. I will read them to you, if you want to change them in some particular?

A. Amounting to $6,062,261.57.

Q. Now I asked you not for interest on investment, but I wanted the other items, and the total if you have it.

The Master: Has he given the other amount?

Mr. O'Brien: I will repeat the total and you can see whether it is correct, $4,860,407.59.

The Master: He hasn't got it that way.

The Witness: Yes, that is the total figure exclusive of interest on investment.

Q. Do you want to change one of those items?

20525 A. That is the figure—let it stand as it is.

The Master: He doesn't want to change it. Go ahead.

Q. Now, was this $4,860,407.59 the amount that was billed to the Consolidated Gas Company during the year for gas furnished?

The Master: Objection sustained on the ground the evidence shows that it was not the amount charged or billed.

The Witness: Right.

Q. Was $6,062,261.57 the amount of money that was billed to the Consolidated Gas Company during the year by the Astoria Light, Heat & Power Com-

20526 pany for gas delivered?

A. Yes, it was.

The Master: This Exhibit 364 makes it $6,001,023.70.

The Witness: Isn't that the figure he read?

Q. No.

A. I think that is the figure. $6,001,023.70.

Q. Well, how do you explain the difference between that and the figures—the total of the figures that you have read off?

A. I have given you the total cost of the production during the year, exclusive of interest on invest-

ment, which was charged to the Consolidated Gas Company, and the total figure $4,860,407.59 is the cost of gas made at Astoria.

Q. As shown by the figures of your men?

A. Yes, and shown by the station records.

Q. Plus the interest, what does that mean?

A. That gives the rate per thousand cubic feet, which only applies to the gas sold to the Consolidated Company, and the interest on investment added will produce $6,001,023.70.

By the Master:

Q. Yes, but as I understand it, the figures that you 20528
gave us including the interest on invested capital, you gave $6,062,261.57?

A. That is because the figure which I gave you and which Mr. O'Brien asked the total of, of $4,860,407.59 is the total of the cost of operations, a total of the result, and the total of all the elements for all the gas made, but all the gas was not delivered, so when the rate per thousand cubic feet based upon these costs is calculated and that rate applied to the cubic feet of gas delivered to the Consolidated Company, and then the interest on the investment which is a charge against the Consolidated Company is added to that, we get the total of $6,001,023.70 as shown in this state- 20529
ment.

Q. What was the amount of bills rendered?

A. The bills rendered were as follows, $584,400.91; $551,262.05—

Q. I don't want each month. Have you got the total?

A. The total is $6,001,023.70.

Q. The amount of the bills rendered was $6,001,023.70?

A. Yes.

Q. But the total cost of the gas made was a little

more, the balance being represented by gas on hand and not transferred?

Mr. Ransom: And a little gas sold to the government?

The Witness: Gas sold.

Mr. Ransom: And a little gas sold to local consumers.

The Master: Next question.

The Witness: They arrived at the rate per thousand cubic feet of gas made, and then applied that rate to the gas delivered to the Consolidated

20531 Company and added the interest on investment, and we will get the total amount charged.

By Mr. O'Brien:

Q. Then this $6,062,261.57 is the amount that was billed to the Consolidated Gas Company for the year?

Mr. Ransom: Objected to.

The Master: Objection sustained. It is not.

Q. Then they were billed $6,001,023.70?

A. They were; the net amount of the bills.

Q. Have you got any figures there that will show the rate per thousand cubic feet that that $4,860,407.59 would work out at?

The Master: Objection sustained. I won't

20532 take it. It is a mere matter of computation. Mr. Sangster can do it just as well as Mr. Teele.

Mr. O'Brien: We ought to have it in the record at this point.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Have you got the amount that would represent the cost of making that gas that was not sent over to the Consolidated?

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Do you know whether that amount would repre-

sent gas sold or any element of leakage or wastage?

The Master: Objection sustained.

Mr. O'Brien: Exception.

The Master: Mr. O'Brien, I am afraid I will have to rule that you will have to confer with Mr. Sangster and then be prepared to ask the questions. I am afraid it takes too long to have constant consultation with Mr. Sangster in that way.

Mr. O'Brien: I have used about two minutes talking to Mr. Sangster about the question I am 20534
going to put to the witness, your Honor.

The Master: Yes, but you do that with every question, that is the trouble. Go ahead. I don't want to interrupt you if I can help it, but I think you ought to have the situation clearly in your mind after talking to Mr. Sangster, so that you can go right ahead and ask your questions.

Mr. O'Brien: I think if your Honor looks at the record in the matter of my examination of the witness and compare it with the direct-examination of counsel, you will find that the ground covered by me isn't a great deal more than the counsel for the complainant has consumed in 20535
putting in his direct testimony.

The Master: Go ahead, and we will see if we can get along. I appreciate that you need the assistance of your expert more or less, but I want to save as much time as I can.

Mr. O'Brien: You see, the answers develop situations as you go along, particularly dealing with accountants.

The Master: I have had that in mind, and that is why I did not interrupt you before. I will let you go as far as I can.

Q. Can you state what adjustments were made at the end of the year 1918, of the figures as to gas transferred by the Astoria Company?

The Master: You better ask him were there any.

Q. Were there any adjustments made of the figures in the gas transferred account at the end of the year, as to the Astoria Light, Heat & Power Company's charges to the complainant?

A. You mean as to cubic feet.

Q. If it is cubic feet, it will be money too, won't
20537 it?

A. Well, which do you mean?

Q. Either or both?

A. There was no adjustment of cubic feet.

By the Master:

Q. Was there any adjustment of amount?

A. There were some credits to operating expenses that were made in December, that were applicable to the months prior to December.

Q. What were they?

A. And were credited in the accounts in December.

Q. What were they?

20538 A. As there had been some in November and in August.

Q. Well, what were they? Let us have them?

A. They were on account of steam furnished to the government plant, an adjustment of—there was $44,572.95 credit on account of the coal adjustment, and there was $41,251 credited on an adjustment of monthly charges to repairs to the plant benches, which were credited at the end of the year.

Q. Those credits appear in the books, don't they?

A. They appear in the books and credited on the account. There was no adjustment of cubic feet, and no occasion for it.

By Mr. O'Brien:

Q. Did your men examine into the cost of investment?

A. They examined into the investment expenditures made during the year 1918, and as to the amount of the investment appearing upon the books upon which interest was calculated.

Q. Well, did they take the figures, the cost of investment, from the books, for the purpose of determining the return upon the investment, or did they go into the actual cost of construction and other forms of investment to make up that amount? 20540

A. They examined of course the accounts taken into the calculations for interest on investment to see whether the accounts on their face represented investment other than property used in the gas business. They would not have included things which on their face did not represent the property used in the gas business.

The Master: I do not think this cross-examination is useful.

Q. Well, do you know what they actually did in that respect?

The Master: No, he does not, that is why I do not think these questions are useful. 20541

A. I have told you how far I know what they did. Under my instructions they took the trial balance of the company and took the accounts on that trial balance shown by the ledger of accounts to be accounts for property used in the gas business. If those accounts were increased any during the year 1918, they examined all expenditures charged against them to see that it was a proper capital expenditure. They did not go back to examine all of the property accounts of the books prior to January 1, 1918, to see whether since 1906 the building up of those accounts had been all capital expenditure.

Q. Mr. Teele, will you give us the amount of unadjusted credits that show on the books of the Astoria Company for the year 1918?

Mr. Ransom: Objected to as immaterial.

The Master: Objection sustained.

Mr. O'Brien: Your Honor, there appears in the report made for the Public Service Commission an indication that there was some $1,900,000 that is an unadjusted credit for the year 1918.

The Master: What do you mean by an unadjusted credit?

20543 Mr. O'Brien: It is a credit that I assume has not been included in the costs of making gas; the revenues.

The Master: A credit from what?

Mr. O'Brien: Well, I may be corrected as to the amount, but I think some $1,200,000 a credit that they expect to get from the United States Government.

The Master: For what?

Mr. O'Brien: For claims of some kind. And then there is a further credit—I think the whole amount is $1,900,000.

The Master: Do you know anything about it, Mr. Teele?

20544

The Witness: No, I do not.

The Master: Next question.

Mr. Ransom: It is pure imagination on the part of counsel.

The Master: This witness does not know anything about it; that is all.

Q. Have you seen the report made by the Astoria Company to the Public Service Commission?

A. I have not.

Q. For the year 1918?

A. I have not.

Q. Or the supplemental statements made in reference to it?

A. I have not.

Q. Have you used any of the reports made by the complainant to the Public Service Commission for purposes of verification?

A. No, I have not.

Q. Did you take the amount of rents of tunnels and mains $506,561.65, and the several items that make that up, directly from the books, or did the examination go further than the mere statement of these amounts on the accounts of the Astoria Company? 20546

A. I have fully covered that, Mr. O'Brien, as to these rentals charged for joint facilities. They are based upon the report made by Mr. Woods and the authorization of the charges to be made, as contained in that report by executive action. I think I have repeated that testimony at least three times.

Q. As to the tunnels?

A. As to the charge to be made for the use of joint facilities.

Q. Did you include the tunnels in that?

Mr. Ransom: I object to the question. Those matters, it has been shown, are all covered by one report and one resolution which has been gone into at very great length. 20547

The Master: I will sustain the objection.

Mr. O'Brien: Exception.

Mr. Ransom: Mr. O'Brien, in fact, marked the resolution in evidence.

Q. Did you go beyond the resolution and the amounts given to you by the engineers?

Mr. Ransom: Objected to as fully covered.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Did you get into the cost of construction of these jointly used facilities and these tunnels, to determine how much they did cost?

The Master: Objection sustained.

Mr. O'Brien: Exception. I doubt, your Honor, whether Mr. Chambers covered that matter or not. When he was going over it he asked about these mains, some of the mains that were jointly used, but one or two questions will dispose of this matter I think, if I may be permitted to ask him just how far he went to verify the
20549 four items that made up that $506,561.65.

The Master: I think that is covered by Mr. Chambers in one form or another, but if you think by two or three questions you can finish up what you have in mind, I will let you do it.

Q. Take the rent, Mr. Teele, for the Astoria tunnel, $379,190.73. Did you go into the books of the East River Gas Company to verify the computation made of that amount?

A. I did not go behind the reports made by the engineer to the company.

The Master: Why don't you just say no?

The Witness: No.

20550 Q. Then you would give the same answer as to the 48-inch and 60-inch mains, $61,730, the Ravenswood tunnel $51,172.80, and the 48 inch Harlem River main $14,468.12?

A. Yes.

Q. Do you know from your examination of the records whether any other companies pay any rentals on the same mains and the same tunnels?

A. My recollection is that—I won't say without referring to data. If I can look at the schedules and my working sheets I could answer the question.

Mr. Ransom: I object to the question. It

is fully covered by the resolution which Mr. O'Brien offered in evidence.

The Master: I will sustain the objection.

Mr. O'Brien: Exception.

Q. Is it not a fact that before you could verify these records you would have to know what was invested in the property rented?

The Master: Objection sustained. That is argumentative.

Mr. O'Brien: Exception.

Q. Do you know what the investment was in the tunnels and mains rented by the Astoria Company? 20552

The Master: Objection sustained as already covered.

Mr. O'Brien: Exception.

Q. Mr. Teele, in the matter of the investment figure upon which the interest on investment of the Astoria Light, Heat & Power Company was computed, do you know whether the accounts which you referred to on the trial balance sheets showed anything besides the physical property?

A. Yes, there are apparently some items in the accounts upon which the investment is calculated which are other than physical property.

Q. Will you state what they are? 20553

A. I find included in the total aggregate under the heading of "Land, Plant and Equipment," a total valuation of $15,167,091.20; that there is included organization expense of $4,750 and interest on construction expenditures of $160,324.

Q. Have you the item there that make up that total investment?

A. I have, except for the deductions which I made, and I can give you these quite readily, I think. Take Land, Plant and equipment of $15,167,091.

Q. That is contained in one amount on the trial balance sheet?

A. I am reading the month of August, 1918. These amounts vary somewhat from month to month.

Q. With additions and withdrawals?

A. Yes. This month of August or any other month will be illustrative of what goes into the amount of the investment. Shall I continue with this? Do you want the rest of it?

Q. Yes.

A. Gas making materials and the materials and supplies other than for the gas making, the cash funds, residuals.

20555 Q. Is the item Land, Plant and Equipment itemized?

A. It is summarized. There is a general analysis of it—fixed capital as of December 31st, 1908, and a fixed capital since, and both of these accounts are accounts kept in accordance with the Public Service Commission requirements. There is real estate, piers and bulkheads, organization.

Q. Will you give those? Have you got those there now?

A. Yes.

Q. Will you set them forth?

The Master: Read them off slowly, with the

20556 amounts.

A. Fixed capital as of December 31st, 1908, $10,912,739.41

Fixed capital since December 31st, 1908, 3,215,244.06

Real estate, 208,088.49

Piers and bulkheads, 431,355.86

Organization, 4,750.00

Railroad equipment, 47,981.00

Tools and implements, 60,658.72

Office furniture and fixtures, 8,579.80

Horses, wagons, and harness, 2,857.63

Boats and scows,	22,282.03
Meters and connections,	18.93
Gas appliances on rental,	22.91
Interest on construction expenditures,	160,324.00
Automobiles and accessories,	2,188.36
The total of the land, plant and equipment,	15,167,091.20
Gas making material,	978,308.62
Materials and supplies other than for gas making,	102,294.77
Accounts receivable,	130,918.72
Cash funds,	163,434.29
Residuals on hand,	56,500.40
General suspense,	231,031.13
Accrued interest on Liberty Bonds,	7,404.62

That apparently makes up the total of the investment. 20558

Q. Those figures are taken from the trial balance sheets that you have just referred to in your testimony?

A. They are. That is for the month of August, 1918.

Q. Just at this point, Mr. Teele, will you explain— you have on Exhibit 205, "Total Gas Storage, $111,873.76." That is on page 18. On Exhibit 364 you have "Gas Storage at works and distributing holder, $181,033.62." Yet your totals of these two accounts, these aggregated figures on the two exhibits is the same. How do you explain that. If you will look on page 16 of this Schedule 205 to which you are referring, you will see station distribution of $69,159.86 which, when added to the $111,873.76, gas storage, will give you the figure that you just asked for. 20559

Q. Then the total on Exhibit 205 of $10,960,050.35 is incorrect?

Mr. Ransom: I object to the question. There it nothing to indicate that. On Exhibit 364 he combines gas storage and works and distributing holders.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Is this item of $181,033.62, an addition of two items on Exhibit 205?

The Master: Objection sustained.

20561 Mr. O'Brien: Exception.

Q. Why was the word "added" put on this Exhibit 364?

The Master: Where is "added"?

Mr. Ransom: There is no word "added" on it.

The Master: Where is the word "added"?

Mr. O'Brien: I have it on mine.

Mr. Ransom: That is not a copy furnished to you is it, Mr. O'Brien?

The Master: Objection sustained.

Mr. O'Brien: Judge, do you know any explanation of that?

20562 Mr. Ransom: This is not a copy we gave you, is it?

The Master: That is not important one way or the other.

The Witness: There is nothing to it: I don't know what you are getting at.

The Master: I will sustain the objection on the ground that it is not a useful inquiry.

Q. Is that the explanation, that you have combined the two items?

A. Yes, sir.

Q. On 364 you put them together?

A. Certainly.

Mr. Ransom: It so shows.

Q. Mr. Teele, in connection with the gas transferred items as to the other companies, did you make an examination of the books, records, papers of original entry and invoices to determine the cost of making gas in those companies?

Mr. Ransom: The witness has described what he did.

Mr. O'Brien: Your Honor, how far he has gone into it to verify actual costs is a matter that has not been gone into.

The Master: I am going to sustain the objection. 20564

Mr. O'Brien: Exception.

Q. Mr. Teele, can you explain why the figures in the gas transferred account were readjusted at the end of 1918?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. In examining the accounts and records of the complainant company to verify the figures as to costs of gas transferred to the complainant company by the New York Mutual Gas Light Company, the Standard Gas Light Company, and the New Amsterdam Gas Company, did you use papers not in evidence that were handed to you by representatives of the company? 20565

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Mr. Teele, do you know the method by which the debits and credits for gas transferred were determined at different times by the complainant company?

The Master: Objection sustained.

Mr. O'Brien: Exception. Your Honor, this is important.

The Master: I won't allow it. I might say for the information of counsel that in the ultimate decision of this case I shall have to arrive at a figure which probably will not agree with any price that they have paid or claim to have paid to anybody. Now, this Exhibit 364 would indicate that they paid 38 cents plus to the Astoria Company as the basic cost of gas which they purchased; and as I analyze these figures that
20567 seems to be the lowest price paid to any of the transferring companies.

Now, it might help you in understanding why I am ruling these questions out if I say that if I reach the conclusion that the price charged by the Astoria Company was right, I would not under any circumstances allow any higher price because they paid more to the other companies. What is the use of wasting time on it? That is why I have let you go into the Astoria, but I am not going to let you waste time in going into the other companies.

Mr. Ransom: The complainant does not al-
20568 together acquiesce in that view.

The Master: Of course, I am not going to reach a conclusion that will satisfy the views of both sides.

Mr. Ransom: The situation is different with these other companies and the Astoria.

The Master: I know it is, and I think I have the case clearly in my mind. I am making some of these rulings because I know on what basis I hope ultimately to reach a conclusion. Objection sustained.

Mr. O'Brien: These questions are designed not for one purpose, but for many.

20569

The Master: Don't let us argue it. I won't allow the inquiry.

Mr. O'Brien: The question, even assuming that your Honor is going to rule that way, that you are going to take the cheapest price that they paid for gas, or the cheapest price which it appears in connection with any of the affiliated companies it could be made for, assuming that, there would still be the necessity, even adopting your Honor's theory of that, to determine whether or not the complainant company received from these affiliated companies all the gas they paid for.

20570

The Master: I don't care anything about that.

Mr. O'Brien: Right here comes the question, how far did the witness go into their method of computing the debits and credits for transferred gas to determine if they were reliable.

The Master: My ruling on that is, and don't let us waste any more time, because we have enough of it in the record, I don't think any more cross-examination is useful on that point. Let us go ahead. I am exercising what I consider to be an arbitrary power on the part of a Judge.

20571

Mr. O'Brien: Do not the questions and answers which are the subject of your ruling have to be on the record as of old?

The Master: No, it is too expensive if the claim of the Gas Company is right.

Mr. O'Brien: That seems to haunt you, the question of expense to the Gas Company.

The Master: It does, it is a very serious responsibility put on a case of this kind, with the charge by the Gas Company that they are losing

over eighteen thousand dollars a day, and to have this case drag now for nearly five months. They are entitled to have it finished in the quickest possible time in which the proof can be taken that is necessary to an adjudication which will protect all the parties.

Mr. O'Brien: I am not unmindful of that side of the case. I have that constantly before me, and hence my great fear of an abortive litigation here.

The Master: Don't let us worry about that. I
20573 will take your next question if you have one.

Mr. O'Brien: I don't think it will take much time to have placed upon the record the system of their computing transferred gas.

The Master: It won't take any. We have enough of it in the record. I won't take any more. Next question.

Mr. O'Brien: I want to ask the witness as to how far he went to verify the computations on transferred gas, so we will know if the amount that was transferred was correct.

The Master: I won't allow it. Next question, or I will tell the witness to leave the stand

20574 Q. Mr. Teele, did Mr. Carter show you that paper which I hand you?

A. This paper is a good many papers.

The Master: Well, it is a number of sheets bound together.

The Witness: I have seen statements of this kind. I do not think Mr. Carter handed that to me.

The Master: The paper to which you refer is a number of sheets bound together, and endorsed on the cover, "Statement *in re* Gas Transferred Between the Consolidated Gas Company and Af-

filiated Gas Companies During the Calendar Year 1918."

Mr. O'Brien: I will ask that that be marked for identification.

The Master: It is not necessary, it is identified by my description.

Q. Mr. Teele, do you know whether the method of computing the debits and credits between the complainant and the three gas companies I just mentioned for transferred gas was changed during the year 1918?

Mr. Ransom: Objected to. That has been fully covered by this witness over three months ago. 20576

The Master: I will let him answer it again.

A. Yes.

The Master: You have told us that, haven't you?

The Witness: I have.

Mr. Ransom: He explained the difference.

Q. In verifying the amounts of gas transferred to the complainant company in connection with the three companies I have mentioned, did you adopt the method that they have used in the latter part of 1918 as the correct method of determining the debits and credits?

The Master: The question is not allowed. 20577

Mr. O'Brien: Exception. Your Honor, am I to understand that because of your purpose to take the lowest price that you find that gas was bought for, or the lowest price at which gas in any of the companies could be made, as a criterion that you do not deem it necessary—

The Master: I will not make any further statement on the subject, Mr. O'Brien. I have said all I intend to say on it at this time.

Mr. O'Brien: Am I to understand that the rul-

ing you have made is to prevent me from going into the question of the costs, actual costs of making gas in these three companies?

The Master: I have ruled that your questions are not directed to what I consider useful cross-examination at this time, for various reasons. Sometimes I have ruled because I could see no possibility of a useful cross-examination; sometimes because the matter has already been covered; sometimes for both reasons; sometimes because I could see that a lot of questions would

20579 spread a lot of matter on the record that is not at all important. It may be very interesting but not important in the line of a conclusion here which is, what can this company efficiently, and fairly and economically operating its plant and the plants which it has under its control, make and supply gas for. They say it can not be done for less than 80 cents, which leaves them no return on their investment. That is what I am going to find out. I am repeating now what I have said from the start, how much coal do you need, how much oil do you need, how much labor do you need.

20580 Mr. O'Brien: There is something more besides that.

The Master: Oh, yes, but those are the basic elements. Mr. Woods has testified that he can not make gas without coal, without a certain quantity of coal.

Mr. O'Brien: Mr. Woods did not go over all of his hypothetical questions. Your Honor stated you would not accept him on a great many items there.

The Master: There we go again into a discussion. I have made my ruling. Can you make gas without coal?

Mr. O'Brien: I wanted to find out after learning from the witness what his examination was, made of the books and papers of original entry of these three companies how far they went in their—

The Master: I have made my ruling.

Mr. O'Brien: There is no question going to be allowed along that line?

The Master: No.

Mr. O'Brien: As to whether they got the invoices, and the reports from the works and the other various papers and records and figures that 20582
they have gone into in regard to the stations of the complainant company, and verified them and made tests, and determined whether or not they might accept the final figures of the books of account of the three companies?

The Master: You understand my ruling.

Mr. O'Brien: That is all included in your Honor's ruling.

The Master: You understand my ruling.

Mr. O'Brien: I assume that no questions can be asked, they will be barred out?

The Master: Right.

Mr. O'Brien: Exception.

The Master: Mr. O'Brien, you were in the 20583
party that visited the Astoria plant several weeks ago, weren't you?

Mr. O'Brien: Are you putting this on the record?

The Master: Yes.

Mr. O'Brien: Well, you ought to know.

The Master: I was there. Well now, did you reach any conclusion as to whether that plant was an up-to-date, fairly efficient and economically operated plant?

Mr. O'Brien: Well, are you making me a witness?

The Master: No, I am asking you these questions for this purpose: The Consolidated Gas Company has a plant at 21st Street, another one at 99th Street, it has two plants that are not operating except on special occasions at other points. It buys gas from the New Amsterdam and Standard and the Mutual, and from the Astoria, and all of those plants are differently located, some of them are very old. The Astoria apparently is the newest. I wanted to see if we could not get somewhere in this case under a stipulation that we can take the Astoria as a basis, analyze their books; if you like, by an independent accountant, examine that company from top to bottom for the sole purpose of determining whether there could be any saving in the cost of making gas over what they showed last year, and taking that as a basis of concluding what it costs to make gas, irrespective of investment items or distribution. That is what I was trying to find out.

20585

Mr. O'Brien: I want to state, your Honor, right on that point, that right here, and I don't know whether you understood it, but I believe that when the defendants' representative went with you to that plant it was not with any idea that what you saw and observed, and what you heard from Mr. Woods and Mr. Lawrence or anybody else would be in evidence in this case.

20586

The Master: I did not talk to Mr. Woods or Mr. Lawrence about a single thing. There was not—

Mr. O'Brien (interrupting): There was no intimation as to that as we went along, or explana-

tion of the way in which the machinery was operated?

The Master: Not a word. I do not recall Mr. Lawrence having said a word to me, and the only thing that Mr. Woods said, as I recall, in the presence of all counsel, was that, "This is a machine that does this; this is a machine that does that; this is the way they put coal in; this is the way we take gas out."

Mr. O'Brien: Well, your Honor if your observations on that occasion are going to be taken in evidence, if they are going to control your 20588
mind or influence it in any respect, then I except to the whole thing, because the representatives of the defendants would never have gone there with you. You yourself have said it was not necessary for me to go; that anybody else could go.

The Master: No, there is nothing in that visit that leaves any impression on my mind. I haven't even in my mind any impression that it is an economical plant or an efficient plant. I asked you whether, as a result of your visit, you reached any conclusion about it.

Mr. O'Brien: Why, no. I would not be so 20589
foolhardy as to reach a conclusion about that plant, for first, I am not an engineer, and secondly, there is the visual evidence, if I may call it such—it does not get anywhere.

The Master: My inquiry was directed solely to the point that it occurred to me that if it were conceded by the defendants that this was a good typical plant, I would be willing to spend a good deal of time in almost any direction to analyze the operating results there, and to see whether there could be any saving anywhere, or whether

the cost of making gas could be made any less, if we could get some sort of a stipulation that the result of such an examination should be taken as a standard. But if it cannot be done, let us go ahead and try this case.

Mr. O'Brien: We have nothing on the cost of making gas yet, except the hypothetical statement, and I want to say so you will have it perfectly clear in your mind, your Honor, that I certainly would have demurred to your going to the plant if I thought that things you saw
20591 that day were going to enter into the determination of this case.

The Master: They have got to. I have got a very clear picture of what a gas plant looks like.

Mr. O'Brien: I understood you were going there so that when witnesses described the cost of making gas at that plant, you would be able to know what they were talking about.

The Master: That is all I went there for, and I do understand what they are talking about now.

Mr. O'Brien: Well, you are asking me if I
20592 did not come to some conclusions.

The Master: I asked you whether you did. Now, go on, let us get another question. It is apparent that I will make no headway in that direction.

Mr. O'Brien: I don't know that I have covered the matter of the witness sufficiently to have the record preserve my rights in regard to how far he made an investigation into the matter of transferred gas. I want to ask the witness whether he made the calculations beyond the vouchers, whether he actually made calculations or found

the calculations that were made in order to verify these invoices.

The Master: I have made a ruling on it.

Mr. O'Brien: Would your Honor's ruling bar those questions, too, along that line?

The Master: Yes.

Mr. O'Brien: Exception.

The Master: I said we have enough in the record about transferred gas.

Q. Mr. Teele, do you know how far your men went into the market prices of coke in connection with their investigation of the accounts of the Astoria Company? 20594

Mr. Ransom: Objection.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Mr. Teele, do you know anything about the accounts of the Astoria Company, that deal with the United States Government?

The Master: Objection sustained.

Q. Have you included in the revenues of the Astoria Company in the determination of the cost of making gas there, any credit in connection with the so-called gas defense service?

Mr. Ransom: Objected to as immaterial. 20595

The Master: Objection sustained.

Q. I show you an addendum on page 29 of a report here, and ask if that refreshes your memory?

Mr. Ransom: What report?

The Master: What report is it?

Mr. O'Brien: It is a report made by the Astoria Company to the Public Service Commission.

The Master: Objection sustained.

Q. Calling your attention to Schedule 10, page 20—

20506 Arthur W. Teele, Cross.

The Master: Exhibit 205, page 20.

Mr. O'Brien: Yes.

Q. I ask you how far your investigation of the underlying records of the street department went to determine their liability of the accounts in the general books of account covering the distribution of superintendence?

Mr. Ransom: Objection.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Did your men examine the pay rolls and time
20507 tickets for all of the expenses set forth under the title "Distribution Superintendence" in Schedule 10?

The Master: That question is not allowed.

Mr. O'Brien: Exception.

Q. Did they make tests upon the underlying data at a given Street Department like Hester Street or 111th Street or some of the others and draw a conclusion from those tests as to the reliability of the records in the general books of account covering this branch of expense?

The Master: Same ruling. I don't know why you are starting all over again now. I told you I would not allow these questions.

20508 Mr. O'Brien: This is as to the distribution, your Honor.

The Master: But the same thing applies to all. Unless you have some particular point that you want to bring out and show an error of some sort.

Mr. O'Brien: I want to have your Honor's ruling apply to this particular schedule.

The Master: All right; you have got it now.

Q. Is the distribution work of the several companies all under one control?

The Master: I won't allow it, and if another

question of the same character is asked, I shall direct the witness to leave the stand, or at any rate I shall direct your cross-examination to be concluded, and tell Mr. Chambers to proceed.

Mr. O'Brien: I except to your Honor's ruling. I assume that your Honor will make the same ruling with regard to inquiries and cross-examination—

The Master: I will make the same ruling with regard to every inquiry of that kind as to every item; you have had enough of it, I say.

Mr. O'Brien: In Exhibit 205? 20600

The Master: Yes, and as to every other exhibit, now, too, 355, 354 and 365, all of them. I won't permit any more questions asking this witness what his men did with reference to checking up as to any items.

Mr. O'Brien: Well, it is not confined to that alone. It is hard to describe in a few terms, your Honor, the nature of the inquiry, but the inquiry is what I consider a development of the witness's knowledge of the books that may qualify him or not qualify him to make a statement that the general books of account are reliable.

The Master: I won't permit another question 20601 on that line.

Mr. O'Brien: Exception. I am passing over the commercial expenses, assuming that your Honor will make the same ruling, and over each other page of Exhibit 205 up to page 29. Will your Honor permit me to go into the question of insurance, to find out whether the witness has made any examination of the cost of insurance?

The Master: No, I won't.

Mr. O'Brien: The costs that the company might be able to get insurance for if they were insuring with another company.

The Master: No, I won't permit it.

Mr. O'Brien: And the development of the—

The Master: He is not here to be questioned—

Mr. O'Brien: And the investigation of the witness as to how far he went in investigating the schedules that are set forth on page 29 of Exhibit 205.

The Master: I will not, under my ruling.

20603 Mr. O'Brien: Exception.

Q. Mr. Teele, will you state why in Schedule 12, page 32 of Exhibit 205, you did not set forth the details of this item of $601,450.69?

The Master: That question is not allowed because we have had all I will take on it—the question of plant withdrawn from service.

Mr. O'Brien: Exception.

Q. Will you state, Mr. Teele, why all of the amount of $414,119.75, entitled "Holders at 65th Street," is charged up to the operating expenses of 1918?

The Master: It is not allowed.

Mr. O'Brien: Exception.

20604 Q. Does not the Public Service Commission require the company to set up a reserve called "Accrued Amortization of Capital," charging operating expenses with the amount estimated to be necessary to cover depreciation on a uniform annual basis and auditing the annual instalments to the reserve?

Mr. Ransom: Objected to.

The Master: Not allowed.

Mr. O'Brien: The last question was allowed?

The Master: I did not allow it.

Mr. O'Brien: I thought I heard you say, "I will allow it."

The Master: I will not allow it. I am not going to have this witness tell us what the Public Service Commission requires. I have their rules here.

Mr. O'Brien: You have been letting him tell that a good many times. In fact he has volunteered that information repeatedly.

The Master: Next question, if you have any.

Q. Did the company set this up, Mr. Teele, in operating expenses, this $601,450.69?

The Master: Not allowed.

Mr. O'Brien: Exception. 20606

The Master: I will let you ask a direct question, if you want to. Did they not put it into a particular place—to make it clear, if you want it. What is your point about it?

Q. The company did not charge this $601,450.69 that you have in your report to profit and loss at all, did it?

A. It is not closed to the profit and loss account in 1918.

Q. Can you tell us what amount was charged to profit and loss on the books of the company for the year 1918 as a provision for depreciation?

Mr. Ransom: Objected to. There is no such charge made and he has so testified. 20607

The Master: I will let the witness state.

Mr. Ransom: It has all been gone over.

Mr. O'Brien: Let the witness answer, will you, Judge Ransom?

The Master: Do you know the question, Mr Teele? What amount was charged to profit and loss to cover depreciation?

The Witness: I do not know that any amount was charged to cover depreciation.

Q. Do you know what is charged to cover renewals?

20608 Arthur W. Teele, Cross.

Mr. Ransom: Objected to.

The Master: Sustained.

Mr. O'Brien: Exception.

Q. Do you know what basis the company used in determining the provisions for depreciation in 1918?

The Master: Sustained.

Mr. O'Brien: Exception.

Q. Will you state why you substituted this amount of $601,450.69 for the amount which the company actually charged up for depreciation?

Mr. Ransom: Objected to. No such thing
20609 was done.

The Master: Objection sustained.

Mr. O'Brien: Exception. Why do you not let the witness state it, if you say it was not done?

The Master: Next question, Mr. O'Brien.

Q. Mr. Teele, have you treated anywhere in Exhibit 205, in the shape of interest on deposits or in any shape or form, any moneys that are involved in the account that have remained over after the litigation in the first rate case of the complainant company?

Mr. Ransom: Objected to. That has been fully covered when this witness was on the stand
20610 before. They had all those accounts out and went over them.

The Master: Yes. I am not sure whether it was Mr. Brundage or Mr. Teele.

Mr. Ransom: Both.

The Master: I will let him state what he understands to be the fact? Have you?

A. No.

Q. Will you state why not—why you have not included the interest on that amount as revenue in this case?

Mr. Ransom: Objected to.

The Master: The question is not allowed. The Master rules that it is quite apparent from what the witness has testified that he left it out because he did not think it belonged in.

Mr. O'Brien: Has the Master some opinion in regard to how the whole subject should be treated?

The Master: No, all I know is that this witness did not put it in because he did not believe it was a proper item in this account—just the same as the investment item he left out, interest on investments. He left this out because he 20612
did not think it belonged in. If you can show me by argument later that it ought to be in, I will allow it.

Mr. Ransom: And that there is any.

The Master: What, a balance?

Mr. Ransom: Interest on it.

The Master: There is five hundred and some odd thousand dollars with the company, running to consumers in the old case. Whether there is interest on it, I do not know.

Q. Have you a paper there showing the exact amount, Mr. Teele?

The Master: No, I do not want it. The item 20613
is in the record.

Mr. Ransom: The items have all been read into the record three months ago.

The Master: That is where I got it. If I did not see it in the record, how would I know?

Mr. O'Brien: I had an idea it was around $500,000.

The Master: That is what it is. It is in the record.

Recess until 2 o'clock P. M.

Afternoon session.

By Mr. O'Brien:

Q. Mr. Teele, you have got on Schedule 14-A, page 35, one column entitled "Not Applicable to Gas Business"?

A. What is that you are referring to?

Q. Exhibit 205. The figures in that column represent revenues as to which you have not included the tax in the first column.

The Master: Question not allowed. It is sufficiently covered.

20615

Mr. O'Brien: Exception.

Q. Mr. Teele, who determined for you whether gross earnings set forth on this schedule should be segregated in the column to the right entitled, "Not Applicable to Gas Business"? Was that done by yourself?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Or was that determined on for you by some officer of the company?

The Master: Same ruling.

20616

Mr. O'Brien: Exception.

Q. Have you made a sufficiently detailed examination of the loans and investments of the complainant company to be able to say what investments of those investments were made out of earnings of the complainant company at any time?

Mr. Ransom: Objected to as incompetent, irrelevant and immaterial.

The Master: Objection sustained.

Mr. O'Brien: Exception. I would like to have on the record for purposes of argument, the amounts or description of the amounts so that

when we are arguing it we can determine—we would have some subject to talk about in the shape of the approximate amount invested in what they have determined to be non-gas making business.

The Master: They are in the books, and in your case you can spread them on the record, or you can spread them on the record from the books at any time.

Mr. Ransom: The returns are in evidence which list these things in greater detail than shown on the exhibits. 20618

Mr. O'Brien: On the tax returns?

Mr. Ransom: Yes.

Q. Was there any part of the insurance participation income charged up to the gas business?

Mr Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Why was all the income from insurance participation charged up to the column, "Not Applicable to Gas Business"?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception. 20619

Q. Have you determined what earnings of the complainant company from the gas business in other years was invested in stock from which the $5,418,588 were received in dividends?

Mr. Ransom: Objected to.

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Will you explain what you mean by "Joint Gas Revenue," and where you found these amounts of $99,616.65 and $120,164.09?

Mr. Ransom: Objected to as fully covered.

20620 Arthur W. Teele, Cross.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Will you explain the basis of that division?

The Master: Same ruling.

not gone into by Mr. Chambers.

Mr. O'Brien: Exception. That matter was

The Master: I think it is sufficiently clear on the record.

Q. Were any of the Liberty Bonds on which the interest set forth here is $50,648.35 purchased with money earned in the gas business by the complain-
20621 ant company?

Mr. Ransom: Objected to.

The Master: Objection sustained.

Mr. O'Brien: Exception.

Q. Was the revenue from light oil recovery not derived from the gas plant of the complainant?

Mr. Ransom: Objected to.

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Why was this light oil recovery revenue derived from the gas business not treated as a revenue of the complainant company in this case?

The Master: Same ruling.

20622 Mr. O'Brien: Exception.

Q. In your examination of the accounts of the Astoria Company were residuals used by the Astoria Company charged up at the same expense, same price that they were sold for in the open market?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Or were they charged up at the same price at which they were sold to the National Coal & Coke Company?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Who determined for you, Mr. Teele, the basis of the distribution of the United States Government tax on capital stock on the basis of 33.67 per cent applicable to gas business, and 66.33 per cent not applicable to gas business?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. What figures did you have before you when you made your division, or the division upon that percentage basis?

Mr. Ransom: Objected to.

The Master: Same ruling. 20624

Mr. O'Brien: Exception.

Q. Coming to Exhibit 355, and particularly Schedule 1, relating to sales of gas, did you make any tests of the accuracy of index readings, in addition to those that were made upon the records of 1918?

The Master: What do you contend about the 1919 schedule, sales of gas, what is your contention, what do you expect to show?

Mr. O'Brien: I desire to bring out now whether or not the witness would give the same answer to questions—

The Master: As to all the schedules for 1919 he said they were prepared the same way, he did the same thing, the same work. 20625

Q. I have asked you now with regard to tests, whether you adopted any test as to 1919, relating to expenses, such as tests of pay rolls, tests of invoices and receipts, similar to those which you say you adopted with regard to the expenses of 1918?

The Master: I will let him answer that question.

A. I did make some tests.

Q. As to what month?

A. In the month of April, 1919.

Q. And as to the expenses of gas production, were they made at the 99th Street station?

A. What do you mean by the expenses of gas production?

The Master: The cost of gas production.

Mr. Ransom: I object to this line of inquiry. That was gone over thoroughly.

The Master: Not as to 1919.

Mr. Ransom: By Mr. Chambers.

Mr. O'Brien: Just about five minutes Mr. Chambers went over it.

20627 Mr. Ransom: Five minutes—five weeks.

A. I checked the station manufacturing reports for the month of April both at 99th Street station and at 21st Street station back to the records kept at the station, the monthly daily record, and the daily hourly record.

The Master: Otherwise this schedule has been prepared the same way as the 1918 exhibit as to these items Mr. Chambers brought out, for instance that withdrawal?

The Witness: I did not make as complete a check of the time card distribution as I did in 1918, where I checked all the time cards for the

20628 month of January and December, but in the month of April I did check the time cards of both the 99th Street and 21st Street stations, and compared those with the pay roll and distribution of those two stations for 1919, to satisfy myself further that the records that were being examined were reliable.

Q. Did you use the manufacturing books record of labor on gas production in making your tests?

The Master: I will limit the cross-examination at this point on this subject. Question not allowed.

Mr. O'Brien: Exception.

Q. As to the month of April, 1919, where you say you made this test, did you make the original record of coal brought into the generator house and boiler house to verify the accuracy of reports turned in by the month from those stations?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Did you make a tabulation of the amount of oil reported to have been used in the two stations where you say you made these tests for the month of April, 1919, to find from them a basis for verifying the reported oil used in those stations for the 20630
month?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. As to invoices covering merchandise and material purchased during the year 1919, did you examine all of the vouchers, all of the invoices, all of the receipts, or was the manner of determining the reliability of the books of account in this respect based upon tests made of the same data in a particular month or week or months?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Did you make for the month of April, 1919, a 20631
test of the accuracy of the meter readings of the complainant company at any branch office or at all the branch offices?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Did you make any tests of the underlying data leading up to the entries in the general books of account covering purchases made of merchandise and material at the branch offices.

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Do these amounts here for prepaid gas set forth with a total of $1,667,667.48, does that include the deposits required by the company of the consumer before prepay meters are installed?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Where are the amounts of these deposits set forth in your schedules, if they are included?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Did any officer of the company—

20633 The Master: Mr. O'Brien, before I let you ask another question I want to know whether there is any item on Exhibit 355 that you are able to point to as being wrong, and in what respect it is wrong.

Mr. O'Brien: I decline to answer that question, your Honor.

The Master: Then I won't permit any further questions of this witness. Have you any other questions to ask, Mr. Chambers?

Mr. Chambers: Yes, I have a great many.

Mr O'Brien: Your Honor, I want to say for the record, for your benefit, that while I appre-

20634 ciate that you will make the same ruling with respect to this exhibit that you did with respect to Exhibit 205, and respecting your ruling and having taken my exception, having determined not to pursue that line of inquiry any further than to make the record, I want respectfully to except now to your suspending my cross-examination of the witness. I except to it with respect to this particular exhibit, for the reason that I propose now if not barred by your Honor's ruling to determine by cross-examination the manner in which these figures covering eight months

have been prepared, an unusual period in rate cases and an unusual period in business concerns and in fiscal organizations for setting forth aggregate figures of profits and losses and expenses and receipts, to determine any proposition. I propose to find out just how the examination of the books was conducted, how far the witness depended upon the examination he made of the books as of 1918 in his conclusions as to the accuracy of the books for 1919 leading up to these figures. Furthermore, to bring out through the examination the utter inadequacy of figures cov- 20636
ering an unusual number of months to show any particular fact with regard to—

The Master: Just a minute, Mr. O'Brien.

Mr. O'Brien: Let me finish the sentence. With regard to the net revenues of the company.

The Master: That finishes a sentence.

Mr. O'Brien: I further—

The Master: No.

Mr. O'Brien: The record will close with a dash, I suppose.

The Master: The stenographer can close it with a dash or a semi-colon or a period, or anything he pleases.

20637 Mr. O'Brien: Will you permit me to state my objections which I stated yesterday afternoon?

The Master: No. The Master rules that he will not permit any further cross-examination on Exhibit 355. He has permitted counsel to ask question after question of Mr. Teele for nearly twenty-five minutes, bringing out the point that he has explained in detail that he wanted to bring out so that he could make the record. I direct counsel to discontinue asking another question about Exhibit 355 unless he changes his

mind and is able or willing to point out some item that requires cross-examination, in the sense that his investigators have indicated a wrong basis of calculation, or a basis other than or different than the 1918 calculation or some useful point. I will note on the record as indicated by counsel that he takes the same position with reference to my ruling here as he did yesterday, and exception is allowed. Is there any other paper that you wanted to ask about?

Mr. O'Brien: There are some matters that
20639 need somewhat different treatment so far as the examination of the witness is concerned than was given to Exhibit 205. For illustration, we found when we went into the examination of the complainant's witness as to transferred gas for the year 1918, that having set up certain figures from month to month of the gas transferred account they disregarded those figures at the end of the month and adopted readjustment figures that were different.

The Master: At the end of the year, you mean?

Mr. O'Brien: At the end of the year, and there
20640 were some inquiries in addition to those that I attempted to make this morning on transferred gas that I would like to make with respect to that particular subject.

The Master: No, I won't allow it.

Mr. O'Brien. The status of that gas transferred account—

The Master: No.

Mr. O'Brien: The method that was used during the period 1919 for the determination of the debits and credits on the gas transferred account covering the gas transferred transactions

beween the complainant and the affiliated companies; the extent to which the complainant's men undertook to examine the account of the several companies who sold gas to the complainant in 1919; how far they went with Astoria; what they found to be the practices of that company with regard to operating expenses in 1919, whether they were the same, and whether there were any different items of expense of substantial character during the year 1919 which were not included in the year 1918. To illustrate, what additions to capital invested were added 20642
to the account during 1919 of the Astoria Light, Heat & Power Company, and used as a basis for determining the interest on the investment during the eight months, the scope of the examination, while it might border on things that were already brought out, would necessarily be different, because they have taken here an unusual period. I may say in this connection, your Honor, that a situation like this arose in the case recently tried before Justice Greenbaum, and he was inclined to disregard a showing for a certain number of months.

The Master: Well, so am I. 20643

Mr. O'Brien: So that that is important too.

The Master: So am I, except—

Mr. O'Brien: I would like to bring out through the examination of this witness the characteristics of a showing made only on eight months from any books of account as being not adequate for the purpose of drawing conclusions as to the results of a whole year.

The Master: I do not need the witness's testimony on that. Now, Mr. Chambers.

Mr. O'Brien: I have not finished with the other exhibit.

Mr. Chambers: I want to say in this connection, that as I understand it, Mr. O'Brien was cross-examining the witness for all the defendants, and was taking our place as to these questions which he asked, and which were not touched upon by the other defendants, and we take the same position that he takes, and except to the refusal of the Master to allow him to put these questions to procure these answers.

The Master: You say you have something else to ask, Mr. O'Brien?

20645 Mr. Ransom: Is that statement authorized on behalf of the defendant's Commission also?

Mr. Clark: Yes.

Mr. Chambers: I want to make it clear that Mr. O'Brien is speaking for the Attorney General at least.

Mr. Ransom: I wanted that to appear as to the Commission also.

Mr. O'Brien: Your Honor, with regard to additions and withdrawals, am I to assume that you make the same ruling about the examination, the matter of bringing out some errors in the accounts as a basis for the right to cross-exam-

20646 ine?

The Master: Ask your question.

Mr O'Brien: Mr. Chambers went into Exhibit 368, and before beginning to examine—I won't take up the time of the Court if your ruling is going to be that he has covered this matter so I ought not to examine with respect to it.

The Master: If you have anything that has not been brought out, anything that is new, any item that he has not covered, any items that require cross-examination, and can show me any

question that will be useful in this case I will allow it, otherwise I won't.

Mr. O'Brien: Your Honor, you are adding to your position now by stating the things that will be useful in this case.

The Master: Yes, always. It is the underlying theory of the whole question of cross-examination not to have useless questions.

Mr. O'Brien: Well, previously you had stated that if we were able to point out a figure that was erroneous you would not permit me to cross-examine. 20648

The Master: I will repeat it now, because otherwise I do not see how it could be useful. In other words, I am drawing the line between a fishing excursion and something that would bring out what would be useful in the case. Curiously enough, Mr. O'Brien, for your information, when I got to the office last night I pulled down a work on evidence to see whether I had gone astray entirely on this rule of mine, and I found the very expression I use, "fishing excursions" as compared with real cross-examination.

Mr. Chambers: I except to that.

The Master: You do not like fishing excursions either, I know, but look in "Rice on Evidence" and you will find it. 20649

Mr. Chambers: I except to the Master branding any questions I asked as a fishing excursion.

The Master: I have branded some, and I repeat that brand now, and I say I will draw the line where I think it is a question of a fishing excursion instead of a question seeking to elicit a useful answer or useful piece of information. I am going to disallow the question if that is the case.

Mr. Chambers: I take an exception to that.

Mr. O'Brien: Your Honor, since you made your ruling yesterday afternoon, and to which I except, I have in the examination that has subsequently followed had in mind your ruling, and at that time you will recall you evidently stated—

The Master: Well, we will settle this very quickly. Is there any item in there you say is wrong, and if so, which?

Mr. O'Brien: I decline to answer the ques-
20651 tion now.

The Master: Then I will not permit any questions on Exhibit 368.

Mr. O'Brien: There are a great many questions I want to ask as to the methods by which he has treated the accounts.

The Master: I will not permit it.

Mr. O'Brien: How far he has gone to test their reliability, how far he has gone to determine whether these items should be set up in the particular accounts in which they are set forth, how far he has depended on figures, reports, documents and papers that were not in
20652 evidence, and how far he has depended on statements made to him by the engineers and employes of the company; and I intend to conduct with respect to this exhibit the inquiry that I have with regard to other matters, where I went along without your Honor's ruling, which you made at the close of the session yesterday.

The Master: I have ruled on this exhibit. Is there any other exhibit you want to ask about?

Mr. O'Brien: I take exception to your Honor's ruling.

The Master: I am going to take the next exhibit.

Mr. O'Brien: Does your Honor care to have me detail the form of the examination that I will indulge in at this time?

The Master: I thought you had done it already. You told me what you wanted to do.

Mr. O'Brien: There are so many purposes that would come out in the discussion of additions and withdrawals.

The Master: No, I will not allow any questions on Exhibit 368.

Mr. O'Brien: They cannot be expressed in one word or expression or paragraph. 20654

The Master: I have made my ruling. Is there any other paper you want to ask about?

Mr. O'Brien: I note an exception to your Honor's ruling. I will ask for the original Exhibits 364 and 365.

(Mr. Ransom hands Mr. O'Brien papers.)

Q. Referring to Exhibit 364, I will ask you, Mr. Teele, whether the item "Gas Received from New York Mutual Company 1,277,804,300 cubic feet" represents the sum total of the invoices of gas transferred, of the Mutual Company for the year 1918?

The Master: What is the purpose of the question? 20655

Mr. O'Brien: The purpose is to find out, your Honor, what has been used by the witness to make up this total, whether he took it from invoices or whether he took it from some paper that was handed to him by Mr. Carter.

The Master: Suppose it is one or the other, what is the point of it? Is not the figure right?

Mr. O'Brien: As to that, I am not at this moment going to say.

The Master: The question will not be allowed. It is a fishing question.

Mr. O'Brien: I will say as to that, your Honor, that the method of computing transferred gas, the method of computing debits and credits of transferred gas, is entirely an arbitrary method. It has been changed, as has been testified, during the year 1918. Whether it is a correct method can only be determined by your Honor after you have evidence on the subject.

The Master: I have all the evidence I want on the subject.

Mr. O'Brien: There has not been made yet, by
20657 any witness in the case, a complete explanation of the method by which they determine these debits and credits.

The Master: I say I have taken all I am going to take on these debits and credits and transferred gas.

Mr. O'Brien: Then your Honor declines to allow me to pursue a similar inquiry in regard to the several items on Exhibit 364, covering payments made to the companies for transferred gas?

The Master: I have ruled out the question that you asked.

Mr. O'Brien: I am asking you that so that I
20658 will not proceed with a lot of questions that may seem to be in contempt of your Honor's ruling.

The Master: You and I will not get into any trouble on contempts.

Q. I ask the same question, Mr. Teele, with regard to the item here of 404,927,800 cubic feet of gas transferred by the New Amsterdam Company?

The Master: Same ruling.

Mr. O'Brien: Same exception.

Q. I ask you now why you use the word "net" after this item "Gas received from New Amsterdam Company"?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Why was the same term not used with respect to the gas received from the New York Mutual Company?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Has any allowance been made in Exhibit 364 for any undistributed or unadjusted credit due to the Astoria Company or charged up as such on their books?

The Master: Same ruling. 20660

Mr. O'Brien: Exception.

Q. Mr. Teele, will you tell me to what extent you made an investigation of the gas used by the Consolidated Gas Company itself that enables you to set up here this figure of 67,427,800 cubic feet?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. What tests did you make to determine the accuracy of the records in the books of accounts as to gas used by the Consolidated Gas Company?

The Master Same ruling.

Mr. O'Brien: Exception.

Q. Where did you find the losses due to condensation, etc., set forth on this exhibit as 1,180,099,100? 20661

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Does that item represent all of the unaccounted for gas of the complainant company?

The Master: Same ruling.

Mr. O'Brien: Exception. Your Honor, it is futile for me to proceed with my examination. I do not want to take up your time if your rulings are going to be the same with respect to this general line of inquiry.

The Master: I thought I had made myself clear about it.

Mr. O'Brien: There were only a few of these items that were covered by Mr. Chambers while he was on the subject.

The Master: I will not let you cover anything unless you show me where you are going to land—unless it is going to land somewhere or going to show something. I am not going to permit what the books call "fishing excursions" unless you show me what it is for.

20663 Mr. O'Brien: Well, that is a little more general than showing you where there is an error in the figures.

The Master: I have made my rulings.

Mr. O'Brien: As regards transferred gas I attempted this morning to give you some idea—

The Master: I have taken all the evidence I will take on transferred gas. I know it, and I have everything in on which you may base an argument. Produce all these records, you can have them marked in. You need not cross-examine on them.

Mr. O'Brien: You are assuming we are go-
20664 ing to put in a case here.

The Master: I do not care whether you do or not.

Mr. O'Brien: I say I will move to dismiss at the close of the complainant's case, and whether we put in any evidence will depend upon the state of the record at that time.

The Master: Have you any more questions to ask?

Q. Mr. Teele, if I were to ask you about these expenses under the heading "Cost of Distribution" and inquire as to how far gas appliances, work done in

connection with gas appliances, expenses in connection with gas appliances enter into these figures, your answers would be the same, may I assume, as they were when I quizzed you about Exhibit 205?

The Master: Answer that, Mr. Teele.

A. Yes.

The Master: How could they be otherwise? They are the same figures.

The Witness: The same figures.

Q. And the same with respect to repairs on—

The Master: The question is not allowed.

Mr. O'Brien: Exception. 20666

Q. Will you tell me what this amount "Vacation and Sickness" is made up of, and where it is found upon the ledger—$51,550.75?

The Master: The question is not allowed.

Mr. O'Brien: Exception.

Q. Is there any one account that sets forth that item, or are there several accounts in which that may be found?

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Mr. Teele, did you examine into the list of those who were benefited by this superannuation account? 20667

The Master: Same ruling.

Mr. O'Brien: Exception.

Q. Did you see receipts for the moneys that are set forth in this account, from the beneficiaries who are supposed to have received them?

The Master: Same ruling. Exhibit 364, being a summary in different form, will contain the same figures as Exhibit 205. I will not allow any more questions on that.

Mr. O'Brien: Did you see before, your Honor, that sickness account?

The Master: Of course, I have seen it. In fact I recall making the remark a week or ten days ago that any concern that could get along in these days without making provision for sickness and mutual aid and superannuation are fools.

Mr. O'Brien: I am not talking about superannuation or the Mutual Aid Society, your Honor.

The Master: I will not permit any more questions about Exhibit 205 or Exhibit 364.

Mr. Ransom: Does that apply to Exhibit 365
20669 also?

The Master: That applies to 365 also—355. We cannot go back to these things and start all over again.

Mr. O'Brien: Your Honor appreciates the difficulty of conducting an examination where part of the ground has been gone over in the preliminary examination?

The Master: What is the use of wasting time looking up anything? I will not let you ask a question.

Mr. O'Brien: For my own satisfaction, your Honor.

20670 Mr. Chambers: We ought to except on the record, Mr. O'Brien, or at least I shall, on the ground that no questions that I have asked in this court have been on a fishing excursion, or anything like it, and I except to any rulings made in that regard.

The Master: I think you made that statement a little while ago.

Mr. Chambers: I think we ought to make it every time he says it is a fishing excursion. We are here under our constitutional rights trying to uphold a statute which was passed by the Legis-

lature, which has been in existence for a number of years, which has been sustained and upheld by the highest court in this land, and we have a right—

The Master: (interrupting): Is that anything new?

Mr. Chambers: We have a constitutional right to see to it that the evidence produced here is sufficient to destroy this statute.

The Master: Have you any further questions, Mr. O'Brien? I do not want any argument.

Mr. O'Brien: I am not going to make an argument, your Honor. I want to join in the exception to your Honor's characterization. 20672

The Master: Have you got a question to ask?

Mr. Chambers: It is very embarrassing.

The Master: Now, Mr. Chambers.

Mr. O'Brien: Will your Honor state on the record that you will not allow us to except?

The Master: I am going to insist on controlling this trial.

Mr. Chambers: I would like to make a statement.

The Master: I won't let you now.

Mr. Chambers: I except to the Master's refusal to allow me to make what I think is a very important statement. 20673

The Master: All right now. You have taken your exception, now stop it. Have you got a question to ask, Mr. O'Brien?

Mr. Chambers: I want to see the trial conducted in a proper way.

The Master: If that happens again I will have to make a very drastic rule about it; it has got to stop.

Mr. Chambers: I think we have a right to rise and speak.

The Master: I am not complaining about your rising or not rising. I want you to stop talking when I tell you to. I am the judge here.

Mr. Chambers: Exception.

The Master: You might not like my rulings, but I am going to insist upon being the boss in this court room.

Mr. Chambers: I am not disputing you, and I am not taking issue with you on that.

Mr. O'Brien: Did your Honor rule that I could not ask anything further on Exhibit 365?

20675 The Master: Yes.

Mr. O'Brien: And you make the same ruling with regard to 369?

The Master: Yes. I mean 362, 363, 364, 365 and 369.

Mr. O'Brien: I except to your Honor's ruling, denying me the right to further cross-examine the witness as to the exhibits just mentioned. With regard to Exhibit 366, your Honor, will you permit me to cross-examine the witness as to that now? You have deferred that examination until after the—

The Master (interrupting): Mr. Ransom,

20676 have you got that proof that you want to read in here?

Mr. Ransom: Yes.

The Master: All right. I will suspend Mr. Teele then until Tuesday morning at 9:15, in order to give counsel an opportunity to examine on 366 and 387.

The Witness: 367.

Mr. Ransom: Why not conclude his examination now?

The Master: 366, is it?

Mr. Ransom: Yes.

The Master: That is the one I told them to check up with Mr. Teele's expert?

Mr. Ransom: Yes, and they have not done it.

The Master: I will let it go until Tuesday morning. Take up that other proof now.

Mr. O'Brien: I was going into that now, your Honor, into 366, not concurring with your Honor's suggestion that we should meet with the employees of the witness Teele and ask them about their figures.

The Master: I am going to let Mr. Chambers finish 366 and 387— 20678

Mr. Chambers: 367.

The Master: 367 and 366, is it?

Mr. Chambers: Yes.

The Master: I will say for the record now that unless questions are pertinent tending to bring out a wrong basis or an error or something that will be beyond what I call a fishing excursion, in spite of the protest—

Mr. O'Brien: I am glad to hear your Honor change the ruling from your ruling of yesterday afternoon.

The Master: I don't know that I have changed any ruling. 20679

Mr. O'Brien: Very much. You then stated that unless I could put my finger there and state it was erroneous, you would not permit me to ask a question.

The Master: And I say it again, I amended it to one extent only, and I will amend it to that extent only, as I told Major Clark, if his experts said they could not figure out an item, it could not be checked from the books, that questions could be asked indicating that that was the fact. I am postponing the cross-examination

until Tuesday morning to give you gentlemen an opportunity to familiarize yourselves with the exhibits, if you have not done it yet, so that when you come in on Tuesday morning you can show me where there is a mistake, or where it is impossible to check it up. That does not mean that we will not hold a session on Monday. We will be in session on Monday afternoon.

Mr. O'Brien: Your Honor at this time will permit me to except to the characterization of your Honor of my cross-examination as a fishing

20681 excursion.

The Master: I did not and never have characterized your cross-examination as a fishing excursion. I have characterized some questions as fishing questions, and you have taken exception to that. Now, Judge Ransom, go ahead.

Mr. Clark: I would like to examine those underlying data in regard to 366 tomorrow morning at the company's office.

The Master: Yes. At what time?

Mr. Clark: At 9:15.

The Master: Mr. Teele, will you have Mr. Moeran up there tomorrow morning at 9:15?

20682 The Witness: Yes.

Mr. O'Brien: Your Honor, when we convene on Tuesday morning, I may close up my cross-examination of Mr. Teele.

The Master: I understood you have nothing but 366 and 367?

Mr. O'Brien: There may be some general questions that I will want to ask.

The Master: All right, on Tuesday morning I will let Mr. Chambers go on with 366 and 367. We will have a session Monday afternoon, but you said you would be ready Tuesday morning,

and I want to give you every opportunity, so that when my record is completed, it will be clear that I gave you a chance.

Mr. Chambers: As to 366, I will probably ask him Monday night after the session. I don't know how late at night.

The Witness: That is all right, Mr. Chambers. We work at night, you know, and that is no hardship on us.

The Master: Now, you offer to read the testimony.

Mr. Ransom: I offer to read from page 285 20684
of the record of William R. Willcox, *et al.*, against Consolidated Gas Company of New York, in the Circuit Court of the United States, page 666 of the same record in the Supreme Court of the United States, the testimony of Collin C. Simpson, a witness in that case called in behalf of the complainant, who having been first duly sworn, testified as shown.

Mr. O'Brien: I object.

The Master: What proof is there in the record that Mr. Simpson is dead?

Mr. Ransom: It is shown rather indirectly, that is, it is referred to. I have Mr. Carter here. 20685

The Master: I do not recall, that is why I asked you.

Mr. Ransom: It is mentioned that he is dead.

ROBERT A. CARTER, called as a witness on behalf of the complainant, being duly sworn, testified as follows:

DIRECT-EXAMINATION BY MR. RANSOM:

Q. Mr. Carter, did you know Collin C. Simpson, formerly general superintendent of mains and services of the complainant company?

A. I did.

Q. Did you attend upon the trial of the former suit brought by the Consolidated Gas Company?

20687 A. I did.

Q. And you remember Mr. Simpson testifying in that trial?

A. I do.

The Master: This record that you have in your hand is the record in the case of Willcox against Gas Company, reported in—

Mr. Ransom: It is reported as such in that court, the case is Consolidated Gas Company—

The Master: I want to identify it in the report of the United States Supreme Court. Where is it reported?

Mr. Ransom: 212 U. S. 19.

20688 The Master: That is the case you are now referring to?

Mr. Ransom: Yes. Before Arthur H. Masten, Special Master.

The Master: Yes. What is the man's name? Did he say what he was?

Mr. Ransom: General superintendent of mains and services of the Consolidated Gas Company.

The Master: Is he alive or dead, Mr. Carter?

The Witness: He is dead, your Honor.

Q. Did you attend his funeral?

A. I did.

Q. Did you see him after death?

A. I did.

The Master: Any questions on that, Mr. Chambers?

Mr. O'Brien: I suppose the witness is called only to establish the fact of his demise?

The Master: The only question I will allow you to ask is to bring out the fact of Mr. Simpson's death.

CROSS-EXAMINATION BY MR. CHAMBERS:

Q. When did he die, Mr. Carter? 20690

A. I can only trust to my memory on that. My impression is 1913, but I would not like to give that as absolute without refreshing my memory.

The Master: All right. Witness excused. Is there any objection to reading this testimony?

Mr. Chambers: I want to wait until he begins reading. There is nothing to object to yet.

The Master: He offers to read it.

Mr. Chambers: I will object to the questions.

The Master: I mean generally.

Mr. Chambers: I will object question by question, when he reads the first question I will object to it. I mean it is premature as yet. 20691

Mr. Neumann: There may be specific objections to some questions.

The Master: Yes, but the point I want to make now is whether you want to put on the record a general objection to reading any part of the testimony, upon the ground that it does not come within the rule or anything of that sort.

Mr. Chambers: I take it it is premature until he reads the first question.

The Master: Read the first question.

Mr. O'Brien: I will make my objection known to your Honor now.

The Master: Wait now. You might just as well make it after the first question is read.

Mr. Ransom (reading):

"DIRECT-EXAMINATION BY MR. MATTHEWSON:

"Present: The Master, Mr. Matthewson, Mr. Mead, Mr. Page, Mr. Taylor, Mr. Burr."

Mr. Chambers: I move to strike that out.

The Master: Yes.

20693 Mr. Ransom (reading):

"Q. Mr. Simpson, where do you reside?"

Mr. Chambers: I object to that upon the ground it is incompetent, irrelevant and immaterial.

The Master: That is all that need be said.

Mr. Chambers: That the action is not between the same parties.

The Master: That is all that need be said about it. Do you join in that objection?

Mr. O'Brien: I certainly do.

The Master: Those grounds cover everything. I do not want to hear any argument.

20694 Mr. O'Brien: Your Honor, some courts like you and want you to specify the basis.

The Master: I will tell you what I want.

Mr. O'Brien: I might say what is running in my mind.

The Master: I don't want you to. It is getting late. Do you gentlemen join in that objection?

Mr. O'Brien: What I want you to specify, if you will, before you pass upon this question finally, you made—

Mr. Clark: I join in that objection.

Mr. OBrien: The particular objection that I have to the testimony, if your oHnor cares to have that now—

The Master: It is covered in the general objection. Do you join in that?

Mr. Chambers: If you consider that he has not proven yet that the questions he will read were really put to the witness—you understand my objection goes to that extent.

The Master: Yes. And that his testimony is reported in a record that is here.

Mr. Chambers: He has not proven it. 20696

The Master: Well, let us have the original record then.

Mr. Ransom: I produce the original record from the files of this court, with the stamp of the clerk of this court filed June 24, 1907, United States Circuit Court, Southern District of New York, John A. Shields, Clerk, in the action, "Circuit Court of the United States, Southern District of New York, Consolidated Gas Company of New York, complainant, against Julius M. Mayer, as Attorney General of the State of New York, William Travers Jerome, as District Attorney of New York County, Frederick E. Gun- 20697
nison, John C. Davis and Lucian L. Shedden, constituting the New York State Commission of Gas and Electricity in the City of New York, file No. 10 S 9431, the title of the action having been subsequently amended as already shown upon this record; also producing the stipulation from the files in this court filed on the same day in the same title with the Master's report, signed by Arthur H. Masten, Mastery in Chancery, United States Circuit Court, "Stipulation: It is hereby stipulated by and on behalf of the par-

ties to the above cause that the signature of witnesses appearing before the Master to their respective depositions be waived, and that the filing of original exhibits in the office of the Clerk of the Court be also waived. Dated, New York, April 24, 1907, William J. Johnson, Attorney General, solicitor for defendant, Mayer and Gunnison, Davies and Shedden, as the Commission of Gas and Electricity, Robert C. Taylor, solicitor for William Travers Jerome, William B. Ellison, Corporation Counsel for the City of New
20699 York, O K, W. P. B., Shearman & Sterling, solicitors for complainant."

The Master: Read the answer to the question.

Mr. O'Brien: Just before that, Judge—your Honor, are we to assume that you hold that the objection on the ground that the testimony is incompetent, irrelevant and immaterial is broad enough to include all objections of any kind whatsoever?

The Master: Yes.

Mr. Ransom (reading):

"A. Flushing.

20700 "Q. Are you connected with the complainant, the Consolidated Gas Company?

"A. I am."

Mr. Chambers: Same objection.

The Master: The objection taken to the first question runs to every question and answer. If in the course of the reading of this deposition there is any particular point with reference to the testimony in that it has some special objection to it which does not go to all of the questions, counsel can make that objection.

20701

Mr. O'Brien: I think it would be perfectly proper at this time to insist upon the complainant's attorney stating here the grounds on which he is offering the testimony of this dead man, so that your Honor may know clearly whether or not you want to rule it out or rule it in. In other words, if the sole excuse for offering this testimony is that the complainant claims a going value, so-called, based upon a certain falling off in earnings from the years 1906 down to date, that there is no authority in the law for such a claim of going value, that such a claim has not 20702
been countenanced and approved by a court, and therefore the whole things would be inadmissible. Now, if he has some other reason for offering this testimony, I think if we are going to have expedition and safe $18,000 a day in losses that the company claims, that your Honor might state to the counsel right now—or ask him to state why he is offering it, and offer a good legal reason for taking up our time with the reading of this long record.

The Master: I will take it up, go on, Mr. Ransom.

Mr. Newman: Here they are reading into the 20703
record the testimony of a deceased person, without proof of any kind that the same testimony cannot be supplied by living persons.

The Master: I will take it.

Mr. Ransom (reading):

"Q. Are you connected with the complainant, the Consolidated Gas Company?

"A. I am.

"Q. In what capacity?

"A. General superintendent of mains and services.

"Q. What is the difference between mains and services as used in the art?"

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Mr. Chambers: I object on the ground it is too remote, and it may give a number of mains which have been withdrawn.

The Master: Objection overruled.

Mr. Chambers: Exception.

"A. Well, the main is the conduit of cast iron which takes the gas from the works to the street; the
20705 services branch off from these street mains to the houses.

"Q. The small pipe running from the main to the house meter?

"A. Yes, sir.

"Q. What is the difference between an inside and an outside service?

"A. An inside and outside service?

"Q. Yes, if any.

"A. Well, we qualify that, one is a service and one is a house pipe.

"Q. Pipes in houses belonging to the customers are house pipes?

20706 "A. Yes.

"Q. And pipes you run from the mains to the meter are services?

"A. Is the service.

"Q. How long have you been superintendent of mains and services of the complainant?

"A. I have been general superintendent since May, 1889.

"Q. And from the time of consolidation in 1884 until 1889, what position did you occupy?

"A. I was branch superintendent.

"Q. Had you any connection with the mains and

20707

services of any of the six constituent companies which form the Consolidated Company prior to 1884?

"A. Yes, sir.

"Q. State?

"A. I was superintendent of mains for the Municipal and Knickerbocker Companies from 1881 to 1884.

"Q. Are you familiar with the mains and services of the complainant the Consolidated Gas Company, as they exist?

"A. I am.

20708

"Q. Are you familiar with the cost of the material and pipe going into the mains?

"A. I am.

"Q. And the cost of laying?

"A. Yes, sir.

"Q. And the character of the soil in the City of New York as rock or otherwise?

"A. Yes, sir.

"Q. And the other elements that enter into the value or cost of the main as in the ground?

"A. Yes, sir.

"Q. From 1884 down to date will you state how your time generally has been spent, whether in doors or out of doors, and in what manner?

20709

"A. Up to a little over a year ago, with the exception of an hour in the office in the morning and an hour in the office in the afternoon I was out of doors altogether.

"Q. Doing what?

"A. Looking after the work and seeing how the work was carried on.

"Q. Wherever the street was opened to lay new mains or expose old mains, was it your business to be there to see it?

"A. It was my business to be there and see it.

"Q. Have you seen personally a large proportion of the mains and services of the company?

"A. You may say nearly every bit of it.

"Q. What is meant by stripping a main?

"A. Well, exposing the main entirely for its entire length. We strip a main on a block between 21st and 22nd Street on any avenue, and the main would be entirely exposed for its entire length, and the street duck up and main exposed up to the underneath part. I mean to say we do not strip the top of it—

"Mr. Page: Down to the underneath part, you
20711 mean?

"The Witness: Down to the underneath part.

"Q. Have you charge of the laying and care of mains and services?

"A. Yes, sir.

"Q. And you have had in the past?

"A. Yes, sir.

"Q. Do you know the condition of the mains of the complainant and its services?

"A. I do.

"Q. Will you describe the mains of the complainant company giving the size and the feet as existed on October 31st last?"

20712 Mr. O'Brien: I object to it on the ground it is incompetent, immaterial and irrelevant, and on all the general and special grounds as stated in the original case.

The Master: Objection overruled.

Mr. O'Brien: Exception.

"A. I will give these in feet. I will give the size and number in feet in each case.

1½	inch	1,407 feet
2	"	3,365 "
3	"	222,741 "
4	"	557,469 "

5	"	1,799	"
6	"	2,129,088	"
8	"	528,040	"
10	"	71,286	"
12	"	321,536	"
16	"	98,901	"
18	"	29,633	"
20	"	178,803	"
24	"	45,956	"
30	"	131,583	"
36	"	22,242	"

"Q. A total of how many feet? 20714

"A. A total of 4,344,849 feet, which is 822 miles and a slight fraction, 822.2, I think it is.

"Q. Have any of the mains which the company took over in 1884 been replaced by new mains since?"

Mr. Chambers: I object to that as incompetent, irrelevant and immaterial.

Mr. O'Brien: I make the same objection.

The Master: Objection overruled.

Mr. Chambers: Exception.

Mr. O'Brien: Exception.

"A. Yes, quite a number. Do you mean under replacement, new mains laid?

"Q. Yes, in place of smaller mains taken up 20715

"A. Well, at the time of the consolidation we had 710 miles. Out of that 710 miles we have laid in the—we have today 822 miles. Out of that 822 miles, 468 miles are new mains which have been laid since the consolidation. We took up or abandoned, as the case may be, over 222 miles of small sizes, twos, threes and fours.

"Mr. Burr: New mains?

"The Witness: No, we laid 468 miles of new mains and 222 miles of old mains we took up.

"Q. Then over half or about one-half of the total

mileage of all mains at present are new mains laid since 1884 either by way of new construction or replacement of existing mains?

"A. More than one-half.

"Q. What percentage of total mileage of mains of the company would you say is that either new or that has either been stripped, examined, recaulked or otherwise gone over by you?

"A. Between 90 and 95 per cent I think it would be nearer 95 than 90 per cent. I will qualify that: the mains stripped and gone over would not total 90
20717 per cent, the mains stripped and examined and gone over plus the mains laid on new streets would between 90 and 95 per cent, nearer 95 than 90 per cent.

"Q. And have you personally seen this mileage, substantially all of it?

"A. I have, sir.

"Q. What is the condition of the mains which are not new but which have been stripped and examined, recaulked and otherwise put in order?

"A. They are absolutely physically as good as the day they were laid.

"Q. Have you found any physical deterioration in any of the mains?

20718 "A. Not in a single instance.

"Q. Of what material are they constructed?

"A. Cast iron.

"Q. Are you able to state the value of these mains as they exist today in the ground?

"A. I am, sir.

"Q. Will you state it?

"A. Well, do you mean the—

"Q. The value today.

"A. If I had to relay them today under existing conditions?

"Q. The present value today if they were relaid?"

20719

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial, that the witness is not qualified as an expert on costs, and that the question calls for a conclusion, value being something to be determined in the case on this question as in this case, by the Court.

Mr. Chambers: I object to it as incompetent, irrelevant and immaterial and indefinite. It does not identify the mains. We do not know whether these are mains in use now, or what they are.

The Master: Objection overruled.

20720

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

Mr. O'Brien: Your Honor, I move that the answer, and the answer to the previous question and answer both be stricken out; on the further ground that it appears from the testimony in this case that the whole of the main system of the several companies are operated as one system, and gas is pushed and pumped from one holder to another, and the holder system is so physically interlocked that it is apparent from the testimony that one system of mains only is necessary, and that of necessity a large proportion of the distribution system of the complainant is lying idle and is not useful in the gas making business.

20721

The Master: I will overrule the motion and will keep it in mind when I come to pass upon the amount of invested capital.

"A. $12,636,150.

"Q. I refer, Mr. Simpson, to the present value of the mains in the ground including cost of material, the expense of laying, and other items that enter into their value, if reproduced today.

"A. That is the figure I have given.

"Q. In equally good condition?"

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial, as calling for a conclusion, and being predicated upon the witness having qualified as an expert, which is not the case.

Upon the further ground that what is an expense or was an expense that year, as to that particular year, is not the measure of "True Value," "Fair Value" as the terms are understood in a rate case. That we are concerned here with an original cost, the original cost of these
20723 mains, and that there is other and more direct and primary evidence than the cost and expense of these mains than the testimony of the witness Simpson, now deceased.

Mr. Chambers: I make the same objection.

The Master: Objection overruled.

Mr. O'Brien: Exception.

"A. Yes, sir.

"Q. Will you state how many services the company had on the 31st of October, 1905?

"A. 86,338.

"Q. And are you also familiar with the services and their value and the cost of replacing them?

20724 "A. I am.

"Q. On the same basis as my questions as to mains what would be the present value of the services of the company?"

Mr. O'Brien: I make the same objection as I made before.

The Master: Same ruling.

Mr. O'Brien: Exception.

"A. $1,994,034.35.

"Q. What proportion of these services had been installed since 1884?

"A. Over 90 per cent—either installed or replaced.

"Q. That is at least that proportion of the old services—

"A. It would be nearer 95 per cent, 90 per cent would be a very conservative estimate.

"Q. How do the new services, this 95 per cent, compare in size or capacity with the old services?"

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial, calling for the conclusion of the witness, as being predicated upon the idea that the witness has qualified as an expert. On the further ground that the witness is being asked as of that date, in 1906, concerning the expense 20726
of installing certain services, as of that date, whereas the question then before the Court was what was the original cost of services in question. That is, as to the original cost of the services in question, testimony of the witness Colin C. Simpson, deceased, if he qualified as an expert, would be secondary evidence and hearsay.

The Master: Objection overruled.

Mr. O'Brien: Exception.

"A. They average in size three times the capacity. That is, the general size of services, most services at that time were three-quarters or one and one-quarter inches. At the present time we install nothing less 20727
than one and a half inches.

"Q. An inch and a half service has three times the capacity of a service of what diameter?"

Mr. O'Brien: I make the same objection based on the fact that the witness did not qualify as an expert.

The Master: Objection overruled.

Mr. O'Brien: Exception.

"A. It is about 2 1/4 times the capacity of an inch service.

"Q. You did not understand the question.

"A. You want to know how the capacity of an inch and a half service compares with the capacity of an inch and a quarter or an inch service?

"Q. Yes, put it that way.

"A. An inch and a half service is equivalent in carrying capacity or delivering capacity to 5.66 three-quarter inch services; 2.75 one-inch services, and 1.58 inch and a quarter services.

"Q. In the value of the service and in the service do you include a box and valve?

20729 "A. I do.

"Q. About what is the cost of the box and valve?

"A. They average about three dollars and a half.

"Q. In what condition are the services kept?"

Mr. Chambers: I object to that as incompetent, irrelevant and immaterial.

Mr. O'Brien: I make the same objection, and on the ground that it calls for a conclusion on the part of the witness.

The Master: Objection overruled.

Mr. O'Brien: Exception.

"A. They are kept in perfect condition. We do not allow them to deteriorate at all; any service that
20730 shows any sign of deterioration is replaced at once, and that has been the policy for the last seventeen years.

"Q. Has that been the practice for many years past?

"A. Yes, sir.

"Q. Ever since you have been connected with the company?

"A. Ever since I have been general superintendent.

"Q. What proportion of these services is under asphalted streets in the City of New York?

"A. About 90 per cent.

"Q. When I use the word 'asphalt' I mean either the asphalted streets or streets with this new pavement?

"A. With the new pavement above 90 per cent.

"Q. What is this new pavement?

"A. Some of it is asphalt, some granite block on concrete, a very small proposition is granite on sand, and some wood blocks and asphalt blocks.

"Q. What proportion of the streets of New York are covered by this pavement?

"A. Close on 90 per cent, about 88 per cent.

"Q. Prior to the covering of the street with the new 20732
pavement was it the custom of the company when it had occasion to open the street either to lay new mains or repair old mains or services, to do its own replacing of the pavement?

"A. Yes, sir.

"Q. What was the cost of the company of replacing it per square yard under those conditions?"

Mr. O'Brien: I object to that as incompetent, irrelevant and immaterial, first on the ground that the witness did not qualify as an expert; secondly that the question then before the Court was not what the cost was in 1906, but what it cost originally to lay the pipes and mains; thirdly 20733
on the ground that this expense has been held to be improperly charged up to capital.

The Master: Objection overruled.

Mr. O'Brien: Exception. Is your Honor allowing that to go in to make the story complete?

The Master: Yes.

Mr. O'Brien: It does not indicate that you are going to hold that it is proper to charge up the cost of the pavement?

The Master: No, I am going to take the evi-

dence now and pass upon the questions of law later

"A. Twenty-five cents; that is what it costs today; it would not be any more then; it was not as high then.

"Q. That perhaps would be an average?

"A. We contract for our paving at that price; for small openings, scattered openings, twenty-five cents a yard and for extended openings fifteen cents a square yard.

"Q. Take now the asphalt pavement, when that is
20735 done, does the company itself replace the pavement?

"A. No, sir, we are not allowed to.

"Q. The asphalt company guaranteeing the pavement, you are compelled to employ them?

"A. We can only get a permit under the condition we employ the asphalt company to replace the pavement.

"Q. What is the cost, or what do you have to pay the asphalt company to replace the asphalt pavement?"

Mr. O'Brien: I make the same objection that I made formerly to the testimony of this witness as to the cost of laying pavement in the year 1906, as not proper in this case, even though
20736 it would be admissible on every other ground.

The Master: Objection overruled.

Mr. O'Brien: Exception.

"A. The cost ranges from $2.70 to over $7.00 a yard on Broadway.

"Q. How about on other streets?

"A. The average price is about $3.25 a yard for asphalt.

"Q. Now, taking the new pavement known as block—

"A. Granite block?

"Q. Yes, granite blocks on concrete.

"A. That is replaced by the city employees. We are charged for that for the first square yard $8.00, and $4.00 for each additional yard.

"Q. All as against twenty-five cents a square yard under the old pavement?

"A. Yes, I cannot contract for the same pavement for $1.90 a yard.

"Q. Are you permitted to?

"A. We are permitted now this last year; if an opening is over 250 feet long we are permitted to contract with the contractor to replace the pavement for us, but we have only just started on that. 20738

"Q. For any smaller jobs you still—

"A. Paying $8 for the first yard and $4 for the additional yards; in small openings it is generally only one yard."

Mr. O'Brien: Of course, your Honor, my objection runs to all of the testimony involved in these questions and answers relating to cost of laying pavement?

The Master: Yes.

"Q. What is the condition of the streets of New York as to subsurface construction pipes and one thing or other with which you have to deal in laying gas mains? 20739

"I will ask you a further question before asking your answer to that. Are you familiar with the condition of the streets of New York, the subsurface conditions as to pipes and other subsurface structures belonging to other concerns than the complainant's?

"A. I am, sir, thoroughly.

"Q. Is it your business to keep familiar with those in order that you may know what might be done with the pipes of the company?

"A. It is a very important part of my business.

"Q. Now, will you answer my original question as

to what the condition under the surface is in reference to pipes, etc."

Mr. Chambers: We object to it as calling for the witness's conclusion, and as incompetent, irrelevant and immaterial, on the further ground that it is not a proper subject for opinion evidence of any sort.

Mr. O'Brien: I object to it as incompetent, irrelevant and immaterial on the grounds previously stated with respect to questions of this character; and on the further ground that this
20741 question is too vague, asking a man what he found to be the conditions in the great City of New York in all these streets. It could not be embraced in one question. He would have to be asked about the various sections there to make it proper.

The Master: I will take the answer.

Mr. O'Brien: Your Honor will bear in mind that these questions and answers were asked in ante-bellum days.

The Master: Which bellum?

Mr. O'Brien: A good many bella have come along since then. The question asked with re-
20742 spect to the topographical or subsurface conditions of New York is entirely improper.

The Master: I will take it and see what use it is to me when I come to it.

Mr. O'Brien: Exception.

"Q. I ask for your own knowledge, Mr. Simpson?

"A. Do you wish me to state any certain streets or anything?

"Q. Any way you please to answer the question?

"A. Well, on Third Avenue, between Grand Street and 125th Street or 127th Street, you might say—

"Q. No, I don't ask you for that, but as to the con-

dition as to subsurface constructions other than our own pipes?

"A. Well, it is so crowded that it is practically impossible today to lay anything—I will guarantee even nobody could lay even a four-inch main."

Mr. Chambers: I move to strike that out as expressing a conclusion and opinion of the witness on a subject that does not call for opinion evidence.

Mr. O'Brien: Same objection.

The Master: Objection overruled.

Mr. Chambers: Exception. 20744

Mr. O'Brien: Exception.

"The Witness: Eighth Avenue is the same way, there isn't room for any gas pipe of any size unless the whole thing was altered over—water pipes and gas pipes, the subways and everything else."

Mr. Chambers: Same motion.

The Master: Same ruling.

Mr. Chambers: The same motion in respect to that answer.

The Master: Same ruling.

Mr. O'Brien: I make that objection on all the grounds already stated in respect to this character of testimony, and note an exception. 20745

The Master: Same ruling.

"The Witness: Second Avenue, First Avenue, Lexington Avenue, Fifth Avenue, Seventh Avenue, Eighth Avenue I gave, Ninth Avenue—the conditions are the same, there is no room for another gas pipe in the avenue; it might be possible to lay a gas main for one block and then you would have to skip three or four blocks before you could get another where it was possible."

Mr. Chambers: Same motion with respect to that statement.

The Master: Same ruling.

Mr. Chambers: Exception

Mr. O'Brien: Exception.

"Q. How about Broadway?

"A. Broadway is the same. That is the worst, probably, of the lot."

Mr. Neumann: Same motion with reference to that.

20747 Mr. O'Brien: Your Honor will note how this brings out clearly the impropriety of this line of testimony. The original cost of the properties that are used by the complainant at the present time in the making of gas is before this Court. Now, subterranean conditions that may have existed in any part of the city in the year 1906, are entirely improper in this case at this time, and for the witness to attempt to characterize all of Broadway without giving the location on Broadway that he had in mind, would also be so general as to be improper. I, therefore, object to it and note an exception to your Honor's ruling.

20748 "Q. Would it be possible by going deep enough under the present structures to lay a main in these avenues?"

Mr. Chambers: Objected to as incompetent, irrelevant and immaterial, calling for a conclusion and opinion on the part of the witness that is not the subject of opinion evidence.

Mr. O'Brien: On the further ground, your Honor, that the foundation has not been laid for the asking of such a question even though it were assumed that the witness was an expert.

The Master: Same ruling.

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

"A. No, sir, it would not, because we would interfere with the sewers, to go under the sewers, that would be an impossibility.

"Q. If it were possible, what effect would that have upon the expenditure necessary to lay the mains and the expense of caring for it thereafter?"

Mr. O'Brien: I object to it as incompetent, irrelevant and immaterial, as dealing with speculatory matters. The witness is asked to give 20750
something that is speculative, that does not deal with concrete facts as brought out by the previous record in the case.

The Master: Objection overruled.

Mr. O'Brien: Exception.

"A. The expense of laying would be enormous and the expense of repairs would be enormous when they were needed."

Mr. Chambers: I move to strike that answer out on the grounds heretofore stated, to wit: That it is an expression of opinion and a conclusion on a subject that is not the subject of opinion evidence. Exception to the ruling. 20751

The Master: Objection overruled.

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

"Q. Would it be possible, in your opinion, to lay through these streets in the City of New York a line of trunk main for the purpose of endeavoring to equalize the pressure, or for any other purpose—an additional line of trunk mains?

"A. Under present conditions, no.

"Q. You said that up to date no physical deterioration had been observed in the mains of the company.

20752 Are you now observing any effects or recent effects from electrolysis or electricity coming from the traction systems or otherwise?"

Mr. Chambers: Objected to as incompetent, irrelevant and immaterial.

Mr. O'Brien: Your Honor, on the further ground that this goes into matters of a highly technical character. The witness has not shown any qualifications to testify as to matters that call for expert knowledge of this kind, and technical professional knowledge; that the witness has not yet been shown to possess it.

20753 The Master: Objection overruled.

Mr. Chambers: Exception.

Mr. O'Brien: Exception.

"A. We are commencing to notice it now.

"Q. Have you made any tests in connection with that subject?

"A. I have had the electricians make tests.

"Q. Have you observed any difference since the elevated railway has been in operation by electricity, and the rapid transit subway systems?

"A. I have not myself; the electrician has."

Mr. Chambers: I move to strike out the answer as to what the electrician noticed.

20754 The Master: I will let it stand.

Mr. Chambers: Exception.

Mr. Neumann: Exception.

"Q. Is the electrician to whom you have referred, an employee of your department?

"A. No, sir.

"Q. So that your information as to the effects of electrolysis to which you referred is second-hand, so to speak, is it, or is it your investigation?

"A. He was engaged by us to make the investigation and reported to me on the subject

20755

"Q. And what you had stated was rather from his report than from your own investigation?

"A. I saw the trouble.

"Q. Well, did you see any effect yourself?

"A. I did.

"Q. What?

"A. I saw the main being pitted at the corner of Church and Spring Streets.

"Q. You saw that it was pitted or that it was being pitted?

"A. I saw it was pitted. The pitting goes on continuously when it once starts.

20756

"Q. What danger in your opinion, if any, exists in future from the operation of these electric systems?"

Mr. Chambers: We object to that as incompetent, irrelevant and immaterial, calling for the opinion of the witness upon a matter that is not the subject of opinion evidence.

Mr. O'Brien: Same objection.

Mr. Ransom: I withdraw the question.

"Q. Are you familiar with the effects of electric currents on mains?

"A. Yes, sir.

"Q. How have you gained that familiarity?

"A. By experience and reading.

20757

"Q. Have you made a study of that subject, among others in connection with your duties?

"A. Yes.

"Q. Do you know how tests are made as to the effect of electric currents on mains?

"A. I am not thoroughly familiar, I could not give a very good description of it, only in general.

"Q. Are you sufficiently familiar with the effect of electrolysis so that you feel able to express a reasonable opinion as to the effect of the electric currents on the mains?

"A. I am, sir.

20768 Colin C. Simpson, Direct.

"Q. Have you observed any of this pitting before the elevated railway and subway were put in operation by electricity?

"A. In one instance, yes.

"Q. Where was that?

"A. Brooklyn Bridge.

"Q. And that system had been in operation by electricity for some time theretofore, had it not?

"A. Yes.

"Q. Will you state, if you can, generally, what the effect on the mains is from an increased amount of
20769 electric current in the streets?"

Mr. Chambers: I object on the ground it is incompetent, irrelevant and immaterial.

Mr. O'Brien: Same objection on the grounds previously stated.

The Master: Same ruling.

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

Mr. O'Brien: Is your Honor going to hold that those questions qualify him as an expert on electrolysis?

The Master: I do not know yet. I am going to take the proof.

20770 "A. It destroys the mains.

"Q. Did you observe any pitting in the mains at the Brooklyn Bridge, before the installation of the electric system on the bridge?

"A. No, sir.

"Q. Does the elevated railway run through Church Street?

"A. Yes, sir.

"Q. Did you observe any pitting in the mains at the corner of Church Street before the installation of the electric system on the elevated railroad?

"A. No, sir.

"Q. These figures of mains and services were made up to October last by you for presentation to the State Gas Commission?

"A. Yes, sir.

"Q. And you made these computations?

"A. Yes, sir.

"Q. Has there been any substantial change in the mains and services since that time?

"A. Scarcely any.

"Q. Were these mains of the constituent companies which were replaced removed because they were physically deteriorated or because they became too small to 20762
meet the requirements of the company?

"A. You mean the six original companies?

"Q. Yes.

"A. Oh, yes, because they were too small."

Mr. Ransom: I go now to page 364 of the record in the Circuit Court.

"Q. Has not the business of the Consolidated Gas Company increased since 1900, requiring more attention from its street force, additional mains and services?

"A. Yes, sir.

"Q. So that the increase in pay roll and in the expenses of your department from 1900, down would 20763
not necessarily be attributable to anything that you had done for these other companies operating in New York, would it?"

Mr. O'Brien: Objected to as incompetent, irrelevant and immaterial, calling for a conclusion and not having the proper foundation laid in the records up to this time.

The Master: I will allow it.

Mr. O'Brien: Exception.

"A. No, sir.

"Q. Do you consider it an economical arrangement for the Consolidated and these other companies to have the work done on the mains as you have indicated?"

Mr. Chambers: I object to that as incompetent, irrelevant and immaterial. The Master is not interested in these other companies in that regard.

Mr. O'Brien: I object to this as a fishing expedition, your Honor, and refer to "Rice on Evidence."

20765 Mr. Neumann: It is quite apparent that he is there talking of the companies before consolidation.

Mr. Ransom: No, it is the same situation as exists now. It is part of the reason why it was deemed economical to get standardized conditions on mains and have the work all done by one street and main department.

The Master: I will allow it.

Mr. Neumann: Exception.

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

"A. For all parties?

20766 "Q. For all parties concerned.

"A. Yes.

"Q. And will you say that any of the city authorities have ever suggested that course to you?"

Mr. Chambers: I object as incompetent, irrelevant and immaterial.

The Master: I will sustain the objection.

Mr. Chambers: The city is not a party here.

The Master: That is not the point. I do not care whether the city is a party or not.

"Q. State more fully."

The Master: I will sustain that, too.

Mr. Ransom: Exception.

"Q. As to the possibility of one company's doing all the street opening?"

Mr. Chambers: Same objection.

The Master: Same ruling.

"Q. Did he say whether it was preferable to deal with a single company?"

Mr. Chambers: Same objection.

The Master: Same ruling.

"Q. Was there any one else of the city authorities who spoke to you on the same subject?"

Mr. Chambers: Same objection to that on the ground it is irrelevant, incompetent and im- 20768
material and hearsay.

The Master: Same ruling.

"Q. You have been asked in reference to the placing of one pipe in Third Avenue in place of the various gas pipes of the complainant company there located. Is there space in Third Avenue, without a large readjustment of other pipes and sub-surface structure to put a large pipe at present?

"A. No, sir.

"Q. In place of any one of the small pipes?

"A. No, sir.

"Q. Would it be a matter of large expense to make that substitution? 20769

"A. It would be, very large indeed."

Mr. O'Brien: To that last question and answer I make objection on the grounds previously stated.

The Master: Objection overruled.

Mr. O'Brien: Exception.

"Q. Would it be feasible to put it in the middle of the street, under the trolley tracks?

"A. No, sir, it would not.

"Q. What would be the effect on the length of your service if you had to run services from a single pipe to each side of the street?"

Mr. Chambers: Same objection on the ground that the witness is not qualified as an expert and on the ground that they do not particularize or give the locality, the condition of which have been testified to previously in the record.

The Master: Same ruling.

Mr. O'Brien: Exception.

"A. It would depend upon where that pipe was placed.

"Q. Suppose it was placed anywhere that you could think of in the street; would it not make very long
20771 services, from one side to the other?

"A. If you had one pipe, it certainly would.

"Q. What effect would a pipe between this large pipe and the curbs, to which the service would run, have on the possibility of running a service without great expense?

"A. It would interfere very materially."

Mr. O'Brien: The same objection to that one, too.

The Master: The same ruling.

Mr. O'Brien: Exception.

"Q. Would it render the installation and maintenance of the services an expensive matter?

20772 "A. It would the installation, I do not know whether it would make much difference in the maintenance.

"Q. You have stated that you made up certain figures and gave them to Mr. Carter, the secretary of the company, in connection with the tax report of 1902.

"A. Yes.

"Q. Do you remember whether you gave him any figures after that, or whether he merely took those figures and added to them from his own data?

"A. To the best of my recollection I gave him the values per foot, from which he computed, or I suppose he computed, his total.

"Q. In 1902?

"A. Yes.

"Q. Do you remember whether you gave him any figures after that?

"A. I do not remember, no, sir.

"Q. Now, Senator Page has read from the testimony before the Gas Commission this reply of yours

" 'Q. Will you state what your method was, or upon what basis those figures were produced?

" 'A. I took the mileage of the various sizes of mains we had at that time, and computed the total amount, taking the cost of laying each size of pipe 20774
under the most favorable conditions. I did it for taxation purposes, and I thought those were the right kind of conditions to take. I did not figure any rock, city inspection, engineering expenses, clerical expenses, wear and tear of tools and superintendence or any matters of that kind.

" 'Q. Did you count any special difficulties on account of pipe construction in the street?

" 'A. No, sir, I did not.'

"Q. Did you, in your unit figures, include anything but the bare cost of material, and the labor for laying in soft dirt street?

"A. No, sir, I did not. 20775

"Q. So that those figures would not include the total cost of the main in the street?

"A. No, sir.

"Q. Now, in reference to the character of the figures that you gave to Mr. Carter, I ask you whether you later testified at the same hearing before the Gas Commission, two or three pages later, as follows: This is page 1559 of the printed record:

" 'By Commissioner Shedden:

" 'Q. Did you give Mr. Carter any figures as to cost of services?

" 'A. No, sir.

"'Q. Did you give him any figures as to the cost of mains?

"'A. No, sir.

"'Q. Did Mr. Carter give you, and did you give him information as to the value of the property of the Consolidated Gas Company, the value of the mains in the streets of New York, on the basis of the company's reproduction for the year ending June 30, 1904?

"'A. I gave him some figures, yes, sir.

"'Q. What were those figures?

20777 "'A. Four million and some hundred thousand dollars, but I did not give him any total; that is what I am trying to tell you I gave Mr. Carter the cost per foot of the different sizes of pipe, and on that he computed the figures.

"'Q. Then the total figures that went into make up the property of the Consolidated Gas Company in the streets of New York, on the basis of cost of reproduction, were not your figures?

"'A. Yes, they were.

"'Q. The totals were not?

"'A. No, sir,' etc.

"Q. Did you testify to that?

20778 "A. I did.

"Q. Is that correct?

"A. It is.

"Q. And do those figures in any way modify your testimony today, as to the cost today or the present value of the mains as they exist in the ground under present conditions?"

Mr. Chambers: That I object to as incompetent, irrelevant and immaterial.

The Master: Objection overruled.

Mr. O'Brien: Same objection.

The Master: Objection overruled.

Mr. O'Brien: Exception.

Mr. Chambers: Exception.

"A. No.

"Q. Since those figures were given to Mr. Carter have labor and material increased or decreased in cost?

"A. Increased.

"Q. In reply to Senator Page's question you gave the cost per foot of laying pipe of various sizes under the old pavement, and under the new pavement; beginning with 1 1/2 inches $1.14 under the new and 20 cents under the old pavement. That was the cost of laying at what date, as you understood it? 20780

"A. October 31, 1905.

"Q. Has there been any increase in the cost of labor or material since that time?

"A. There has been increase in the cost of material, not of labor.

"Q. Would that then represent the cost of laying the various sizes per foot today, the current prices?

"A. No, sir.

"Q. Would the cost be greater or less?

"A. It would be greater.

"Q. And do those prices include any allowance on account of rock cutting, which you say represents about ten per cent of the mileage? 20781

"A. No, sir.

"Q. And do those figures include anything for cost of city inspection, or engineering expense, or supervisory expense, or wear and tear of tools and plant, or special obstructions in the street, or underground obstructions, clerical expense, or expenses of that character?

"A. No, sir.

"Q. When you stated your total cost today, or the total value today of mains in the streets, to be

$12,636,150.04, did you include all those items, including the current cost of labor and material?

"A. Yes.

"Q. Referring to the difference in mileage between the mains from 1 1/2 to 3 inches, as between your statement of mileage, upon which you made your computation as of September 21st, 1905, and the tax report as of November 1st, 1905, to which Senator Page has called your attention, were there not certain abandoned mains of those sizes which you did not include in your computation of values?

20783 "A. There were.

"Q. And are you able to say, from the mileage which appears in the tax report, whether the tax report did include those abandoned mains?

"A. Whether it did include them?

"Q. Yes.

"A. It did include them, yes, sir.

"Q. So that would include the difference between those two statements?

"A. Yes, I did not take into account those abandoned mains at all.

"Q. Referring to the decrease of services from time to time in case several buildings are taken down

20784 and a large building, say a hotel or an apartment house, is placed upon that plot, what is the effect upon the number of services you require?

"A. I did not catch that.

"Q. If several smaller buildings are taken down and a large building is erected on the same plot, is not the effect to reduce the number of services and to increase the size?

"A. Yes, reduce the number and increase the size.

"Q. When you spoke of there being required no fund for physical depreciation of mains, did you mean to say that no fund should be allowed for the purpose of renewing smaller mains?

"A. I understood that to apply to those that had to be replaced on account of physical depreciation.

"Q. You make that distinction, between the replacement of smaller mains with larger mains, and physical depreciation?

"A. Yes, sir.

"Q. And are you able to say that as to the effect of electrolysis it may or may not be necessary to have a fund to care for that?"

Mr. Chambers: I object to that. That is too vague or hypothetical.

Mr. Ransom: Question withdrawn. 20786

Adjourned to Monday, November 24, 1919 at 2 P. M.

Last Complainant's Exhibit
Last Defendants' Exhibit